
HOUSE BILL No. 1407

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-1-8-1; IC 9-25-5-5; IC 12-17.6-4-5; IC 22-2-2-3; IC 22-3-3-13; IC 22-4-8-3; IC 24-4.5-6-201; IC 27-1; IC 27-2-17; IC 27-4; IC 27-5; IC 27-6; IC 27-7; IC 27-8; IC 27-9; IC 27-10; IC 27-11-8-9; IC 27-13; IC 28-1-11; IC 28-5-1-6.5; IC 28-6.1-6-14; IC 28-7-1-9.1; IC 28-14-3; IC 32-8-15.5-10; IC 34-18-5-3; IC 35-43-9-4.

Synopsis: Insurance "agent" to "producer" corrections bill. Replaces references to insurance agents and limited insurance representatives with insurance producer.

Effective: July 1, 2003.

Ripley

January 14, 2003, read first time and referred to Committee on Insurance, Corporations and Small Business.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1407

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.215-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) No individual may be compelled by any
4 state agency, board, commission, department, bureau, or other entity of
5 state government (referred to as "state agency" in this chapter) to
6 provide the individual's Social Security number to the state agency
7 against the individual's will, absent federal requirements to the
8 contrary. However, the provisions of this chapter do not apply to the
9 following:
10 (1) Department of state revenue.
11 (2) Department of workforce development.
12 (3) The programs administered by:
13 (A) the division of family and children;
14 (B) the division of mental health and addiction;
15 (C) the division of disability, aging, and rehabilitative services;
16 and
17 (D) the office of Medicaid policy and planning;



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of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance ~~agents~~ **producers**.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

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(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

SECTION 2. IC 9-25-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who receives a request for evidence of financial responsibility under section 3 of this chapter shall set forth in the certificate of compliance the following information concerning the form of financial responsibility that was in effect with respect to the motor vehicle on the date in question:

(1) If a motor vehicle liability policy was in effect, the following:

(A) The name and address of the insurer.

(B) The limits of coverage of the policy.

(C) The identification number applying to the policy.

(2) If a bond was in effect, the following:

(A) The name and address of the bond company or surety.

(B) The face amount of the bond.

(3) If self-insurance was in effect under IC 9-25-4-11, the following:

(A) The date on which the certificate of self-insurance was issued by the bureau.

(B) The name of the person to whom the certificate of self-insurance was issued.

(b) A person who requests information or verification of coverage to complete a certificate of compliance under subsection (a) from:

(1) an insurance company; or

(2) an insurance ~~agent~~ **producer**;

is not required to give the company or the ~~agent~~ **producer** a reason for requesting the information unless the person has been involved in an accident.

SECTION 3. IC 12-17.6-4-5, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance ~~agent~~ **producer** or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health



care coverage for an employee's dependents.

SECTION 4. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter:

"Commissioner" means the commissioner of labor or the commissioner's authorized representative.

"Department" means the department of labor.

"Occupation" means an industry, trade, business, or class of work in which employees are gainfully employed.

"Employer" means any individual, partnership, association, limited liability company, corporation, business trust, the state, or other governmental agency or political subdivision during any work week in which they have two (2) or more employees. However, it shall not include any employer who is subject to the minimum wage provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209).

"Employee" means any person employed or permitted to work or perform any service for remuneration or under any contract of hire, written or oral, express or implied by an employer in any occupation, but shall not include any of the following:

(a) Persons less than sixteen (16) years of age.

(b) Persons engaged in an independently established trade, occupation, profession, or business who, in performing the services in question, are free from control or direction both under a contract of service and in fact.

(c) Persons performing services not in the course of the employing unit's trade or business.

(d) Persons employed on a commission basis.

(e) Persons employed by their own parent, spouse, or child.

(f) Members of any religious order performing any service for that order, any ordained, commissioned, or licensed minister, priest, rabbi, sexton, or Christian Science reader, and volunteers performing services for any religious or charitable organization.

(g) Persons performing services as student nurses in the employ of a hospital or nurses training school while enrolled and regularly attending classes in a nurses training school chartered or approved under law, or students performing services in the employ of persons licensed as both funeral directors and embalmers as a part of their requirements for apprenticeship to secure an embalmer's license or a funeral director's license from the state, or during their attendance at any schools required by law for securing an embalmer's or funeral director's license.

(h) Persons who have completed a four (4) year course in a

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1 medical school approved by law when employed as interns or
 2 resident physicians by any accredited hospital.

3 (i) Students performing services for any school, college, or
 4 university in which they are enrolled and are regularly attending
 5 classes.

6 (j) Persons with physical or mental disabilities performing
 7 services for nonprofit organizations organized primarily for the
 8 purpose of providing employment for persons with disabilities or
 9 for assisting in their therapy and rehabilitation.

10 (k) Persons employed as insurance ~~agents~~, **producers**, insurance
 11 solicitors, and outside salesmen, if all their services are performed
 12 for remuneration solely by commission.

13 (l) Persons performing services for any camping, recreational, or
 14 guidance facilities operated by a charitable, religious, or
 15 educational nonprofit organization.

16 (m) Persons engaged in agricultural labor. The term shall include
 17 only services performed:

18 (1) on a farm, in connection with cultivating the soil, or in
 19 connection with raising or harvesting any agricultural or
 20 horticultural commodity, including the raising, shearing,
 21 feeding, caring for, training, and management of livestock,
 22 bees, poultry, and furbearing animals and wildlife;

23 (2) in the employ of the owner or tenant or other operator of a
 24 farm, in connection with the operation, management,
 25 conservation, improvement, or maintenance of the farm and its
 26 tools and equipment if the major part of the service is
 27 performed on a farm;

28 (3) in connection with:

29 (A) the production or harvesting of maple sugar or maple
 30 syrup or any commodity defined as an agricultural
 31 commodity in the Agricultural Marketing Act, as amended
 32 (12 U.S.C. 1141j);

33 (B) the raising or harvesting of mushrooms;

34 (C) the hatching of poultry; or

35 (D) the operation or maintenance of ditches, canals,
 36 reservoirs, or waterways used exclusively for supplying and
 37 storing water for farming purposes; and

38 (4) in handling, planting, drying, packing, packaging,
 39 processing, freezing, grading, storing, or delivering to storage,
 40 to market, or to a carrier for transportation to market, any
 41 agricultural or horticultural commodity, but only if service is
 42 performed as an incident to ordinary farming operation or, in

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the case of fruits and vegetables, as an incident to the preparation of fruits and vegetables for market. However, this exception shall not apply to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market or processor for preparation or distribution for consumption.

As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, or greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(n) Those persons employed in executive, administrative, or professional occupations who have the authority to employ or discharge and who earn one hundred fifty dollars (\$150) or more a week, and outside salesmen.

(o) Any person not employed for more than four (4) weeks in any four (4) consecutive three (3) month periods.

(p) Any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Act of 1935 (49 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article

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1 to pay compensation for personal injuries to or the death of their
2 employees under this article; and

3 (2) each employer carrying the employer's own risk;

4 stating that an assessment is necessary. After June 30, 1999, the board
5 may conduct an assessment under this subsection not more than one (1)
6 time annually. Every insurance carrier and other entity insuring or
7 providing coverage to employers who are or may be liable under this
8 article to pay compensation for personal injuries to or death of their
9 employees under this article and every employer carrying the
10 employer's own risk, shall, within thirty (30) days of the board sending
11 notice under this subsection, pay to the worker's compensation board
12 for the benefit of the fund an assessed amount that may not exceed two
13 and one-half percent (2.5%) of the total amount of all worker's
14 compensation paid to injured employees or their beneficiaries under
15 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
16 due date of such payment. For the purposes of calculating the
17 assessment under this subsection, the board may consider payments for
18 temporary total disability, temporary partial disability, permanent total
19 impairment, permanent partial impairment, or death of an employee.
20 The board may not consider payments for medical benefits in
21 calculating an assessment under this subsection. If the amount to the
22 credit of the second injury fund on or before October 1 of any year
23 exceeds one million dollars (\$1,000,000), the assessment allowed
24 under this subsection shall not be assessed or collected during the
25 ensuing year. But when on or before October 1 of any year the amount
26 to the credit of the fund is less than one million dollars (\$1,000,000),
27 the payments of not more than two and one-half percent (2.5%) of the
28 total amount of all worker's compensation paid to injured employees or
29 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
30 year next preceding that date shall be resumed and paid into the fund.
31 The board may not use an assessment rate greater than twenty-five
32 hundredths of one percent (0.25%) above the amount recommended by
33 the study performed before the assessment.

34 (d) The board shall enter into a contract with an actuary or another
35 qualified firm that has experience in calculating worker's compensation
36 liabilities. Not later than September 1 of each year, the actuary or other
37 qualified firm shall calculate the recommended funding level of the
38 fund based on the previous year's claims and inform the board of the
39 results of the calculation. If the amount to the credit of the fund is less
40 than the amount required under subsection (c), the board may conduct
41 an assessment under subsection (c). The board shall pay the costs of the
42 contract under this subsection with money in the fund.

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(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of ~~agent~~ **insurance producer** commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from

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causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 6. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. "Employment" shall not include the following:

(a) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same

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period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(b) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board is authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in IC 22-4-19-2 for rules of the board, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(c) "Agricultural labor" as provided in section 2(1) of this chapter shall include only services performed:

(i) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members)

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1 in the performance of service described in subdivision (A), but
 2 only if such operators produce more than one-half (1/2) of the
 3 commodity with respect to which such service is performed;

4 (C) the provisions of subdivisions (A) and (B) shall not be
 5 deemed to be applicable with respect to service performed in
 6 connection with commercial canning or commercial freezing or
 7 in connection with any agricultural or horticultural commodity
 8 after its delivery to a terminal market for distribution for
 9 consumption; or

10 (v) on a farm operated for profit if such service is not in the
 11 course of the employer's trade or business or is domestic service
 12 in a private home of the employer.

13 As used in this subsection, "farm" includes stock, dairy, poultry, fruit,
 14 furbearing animals, and truck farms, nurseries, orchards, greenhouses,
 15 or other similar structures used primarily for the raising of agricultural
 16 or horticultural commodities.

17 (d) Domestic service in a private home, local college club, or local
 18 chapter of a college fraternity or sorority, except as provided in section
 19 2(m) of this chapter.

20 (e) Service performed on or in connection with a vessel or aircraft
 21 not an American vessel or American aircraft, if the employee is
 22 employed on and in connection with such vessel or aircraft when
 23 outside the United States.

24 (f) Service performed by an individual in the employ of child or
 25 spouse, and service performed by a child under the age of twenty-one
 26 (21) in the employ of a parent.

27 (g) Service not in the course of the employing unit's trade or
 28 business performed in any calendar quarter by an individual, unless the
 29 cash remuneration paid for such service is fifty dollars (\$50) or more
 30 and such service is performed by an individual who is regularly
 31 employed by such employing unit to perform such service. For the
 32 purposes of this subsection, an individual shall be deemed to be
 33 regularly employed to perform service not in the course of an
 34 employing unit's trade or business during a calendar quarter only if:

35 (i) on each of some of twenty-four (24) days during such quarter
 36 such individual performs such service for some portion of the day;
 37 or

38 (ii) such individual was regularly employed (as determined under
 39 clause (i)) by such employing unit in the performance of such
 40 service during the preceding calendar quarter.

41 (h) Service performed by an individual in any calendar quarter in
 42 the employ of any organization exempt from income tax under Section

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501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars (\$50).

(i) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(j) Service performed in the employ of a school, college, or university if such service is performed:

(i) by a student who is enrolled and is regularly attending classes at such school, college, or university; or

(ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

(B) such employment will not be covered by any program of unemployment insurance.

(k) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(l) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(m) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof.

(n) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is

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1 regularly attending classes in a nurses' training school chartered or
 2 approved pursuant to state law; and service performed as an intern in
 3 the employ of a hospital by an individual who has completed a four (4)
 4 year course in a medical school chartered or approved pursuant to state
 5 law.

6 (o) Service performed by an individual as an insurance ~~agent~~
 7 **producer** or as an insurance solicitor, if all such service performed by
 8 such individual is performed for remuneration solely by way of
 9 commission.

10 (p)(A) Service performed by an individual under the age of eighteen
 11 (18) in the delivery or distribution of newspapers or shopping news, not
 12 including delivery or distribution to any point for subsequent delivery
 13 or distribution.

14 (B) Services performed by an individual in, and at the time of, the
 15 sale of newspapers or magazines to ultimate consumers, under an
 16 arrangement under which the newspapers or magazines are to be sold
 17 by him at a fixed price, his compensation being based on the retention
 18 of the excess of such price over the amount at which the newspapers or
 19 magazines are charged to him, whether or not he is guaranteed a
 20 minimum amount of compensation for such service, or is entitled to be
 21 credited with the unsold newspapers or magazines turned back.

22 (q) Service performed in the employ of an international
 23 organization.

24 (r) Except as provided in IC 22-4-7-1, services covered by an
 25 election duly approved by the agency charged with the administration
 26 of any other state or federal unemployment compensation law in
 27 accordance with an arrangement pursuant to IC 22-4-22-1 through
 28 IC 22-4-22-5, during the effective period of such election.

29 (s) If the service performed during one-half (1/2) or more of any pay
 30 period by an individual for an employing unit constitutes employment,
 31 all the services of such individual for such period shall be deemed to
 32 be employment; but if the services performed during more than
 33 one-half (1/2) of any pay period by such an individual do not constitute
 34 employment, then none of the services of such individual for such
 35 period shall be deemed to be employment. As used in this subsection,
 36 "pay period" means a period of not more than thirty-one (31)
 37 consecutive days for which a payment of remuneration is ordinarily
 38 made to the individual by the employing unit. This subsection shall not
 39 be applicable with respect to services performed in a pay period by any
 40 such individual where any such service is excepted by subsection (b).

41 (t) Service performed by an inmate of a custodial or penal
 42 institution.



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(u) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 7. IC 24-4.5-6-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201. (1) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a person, including a supervised financial organization, engaged in Indiana in any of the following:

(a) Making consumer credit sales, consumer leases, or consumer loans.

(b) Taking assignments of rights against debtors that arise from sales, leases, or loans by a person having an office or a place of business in Indiana, and undertaking direct collection of payments from the debtors or enforcement of rights against the debtors.

(c) Placing consumer credit insurance, receiving commissions for consumer credit insurance, or acting as ~~an agent~~ **a limited line credit insurance producer** in the sale of consumer credit insurance.

(2) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not applicable to a seller whose credit sales consist entirely of sales made pursuant to a seller credit card issued by a person other than the seller if the issuer of the card has complied with the provisions of this section, IC 24-4.5-6-202, and IC 24-4.5-6-203.

(3) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a seller whose credit sales are made using credit cards that:

(a) are issued by a lender;

(b) are in the name of the seller; and

(c) can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

SECTION 8. IC 27-1-2-3, AS AMENDED BY P.L.48-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this article, and unless a different meaning appears from the context: (a) "Insurance" means a contract of insurance or an agreement by which one (1) party, for a consideration, promises to pay money or its equivalent or to do an act valuable to the insured upon the destruction, loss or injury of something in which the other party has a pecuniary interest, or in consideration of a price paid, adequate to the risk, becomes security to the other against loss by certain specified risks; to grant indemnity or security against loss for a consideration.

(b) "Commissioner" means the "insurance commissioner" of this state.

(c) "Department" means "the department of insurance" of this state.



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(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person employed to aid an insurance ~~agent~~ **producer** in any manner in soliciting, negotiating, or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed in the office of the secretary of state, and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.

(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

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(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

(w) The term "premium" means money or any other thing of value paid or given in consideration to an insurer, ~~agent~~, **insurance producer**, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

SECTION 9. IC 27-1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commissioner may, personally or through ~~his~~ **the commissioner's** deputies and assistants, examine into the affairs of any such proposed company and inspect its books and papers, and may summon and examine under oath any officer or ~~agent~~ **insurance producer** or any person who is or has been connected with such company, and if ~~he~~ **the commissioner** finds

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the company is violating the law, or if the company shall not be qualified for a certificate of authority within one (1) year from date of its permit, ~~he the commissioner~~ may revoke its permit; and if ~~he the commissioner~~ finds an **agent insurance producer** of such company has violated the law, ~~he the commissioner~~ may revoke ~~his the insurance producer's~~ authority, and ~~he the commissioner~~ may for ~~such agent's the insurance producer's~~ violation revoke the company's permit. Any revocation shall be after notice and hearing. The commissioner may renew any company's permit or agent's authority which ~~he the commissioner~~ has revoked.

SECTION 10. IC 27-1-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. When any insurer admitted to transact business in this state transfers its domicile to this or any other state, its certificate of authority, **agents' insurance producers'** appointments and licenses, policy forms, rates, authorizations, and other filings and approvals which existed at the time of the transfer, remain in effect after the transfer of domicile occurs.

SECTION 11. IC 27-1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. (a) As used in this section, "life insurance policy" means:

(1) an individual life insurance policy other than a credit life insurance policy; or

(2) an individual policy of variable life insurance; that is sold after June 30, 1994.

(b) No life insurance policy may be issued in Indiana or issued for delivery in Indiana unless it contains a provision allowing the policyholder to return the policy to:

(1) the insurer;

(2) the **agent insurance producer** through whom the policy was purchased; or

(3) any agent of the insurer;

within ten (10) days after the policy is received by the policyholder for a full refund of all money paid by the policyholder.

(c) Each life insurance policy must have prominently printed on its first page a notice setting forth in substance the provisions of subsection (b).

SECTION 12. IC 27-1-12.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Each annuity contract shall contain a provision giving the purchaser an unrestricted right to return the contract to the company or to the **agent insurance producer** through whom it was purchased, on or before the tenth day

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1 after it is received by the purchaser, such return entitling the purchaser
 2 to a return of the value of a variable annuity account or the monies paid
 3 by the purchaser to a fixed account in connection with the issuance of
 4 the contract. This provision shall be conspicuously placed on the face
 5 of the contract. This provision does not apply to contracts issued in
 6 connection with a pension, annuity, or profit-sharing plan qualified or
 7 exempt under Sections 401, 403, 404, or 501 of the Internal Revenue
 8 Code, if participation in the plan is a condition of employment.

9 SECTION 13. IC 27-1-13-11 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. At all such
 11 meetings of the governing body held at Indianapolis, Indiana, as set out
 12 in section 10 of this chapter, any aggrieved policyholder, ~~agent,~~
 13 **insurance producer**, company, representative, or any other aggrieved
 14 person may appear before such meeting to have complaints heard in
 15 full, and it shall be the duty of such rating bureau to rectify such
 16 conditions as are justly complained of in such manner as is reasonably
 17 possible.

18 SECTION 14. IC 27-1-20-30 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) No company
 20 acting through its officers or members, attorney-in-fact, or by any other
 21 party, no officer of a company acting on ~~his~~ **the officer's** own behalf
 22 and no insurance ~~agent, producer~~, broker, or solicitor, personally or by
 23 any other party, shall offer, promise, allow, give, set off or pay, directly
 24 or indirectly, any rebate of or part of the premium payable on a policy,
 25 or any ~~agent's~~ **insurance producer's** commission thereon, or earnings,
 26 profits, dividends or other benefits founded, arising, accruing, or to
 27 accrue thereon or therefrom, or any special advantage in date of policy
 28 or age of issue, or any paid employment or contract for services of any
 29 kind, or any other valuable consideration or inducement, to or for
 30 insurance on any risk in this state, now or hereafter to be written, or for
 31 or upon any renewal of any such insurance, which is not specified in
 32 the policy contract of insurance, or offer, promise, give, option, sell or
 33 purchase any stocks, bonds, securities, or property, or any dividends or
 34 profits accruing or to accrue thereon, or other thing of value whatsoever
 35 as inducement to insurance or in connection therewith, or any renewal
 36 thereof, which is not specified in the policy. Nothing in this section
 37 shall prevent a company which transacts industrial life insurance on a
 38 weekly payment plan from returning to policyholders who have made
 39 a premium payment for a period of at least one (1) year directly to the
 40 company at its home or district office a percentage of premium which
 41 the company would otherwise have paid for the weekly collection of
 42 such premium, nor shall this section be construed to prevent the taking

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of a bona fide obligation, with legal interest, in payment of any premium.

(b) No insured person or party or applicant for insurance shall directly or indirectly, receive or accept, or agree to receive or accept, any rebate of premium or of any part thereof, or all or any part of any **agent's insurance producer's** or broker's commission thereon, or any favor or advantage, or share in any benefit to accrue under any policy of insurance, or any valuable consideration or inducement, other than such as are specified in the policy.

SECTION 15. IC 27-1-22-2.5, AS AMENDED BY P.L.132-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:

(1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;

(2) has purchased the policy of insurance through an insurance **agent producer** licensed under IC 27-1-15.6 or IC 27-1-15.8; and

(3) meets any three (3) of the following criteria:

(A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued.

(B) Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year.

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.

(D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.

(F) Procures commercial insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and

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1 analyze and negotiate a policy of insurance on behalf of an exempt
2 commercial policyholder. A risk manager may be:

3 (1) a full-time employee of an exempt commercial policyholder
4 who is qualified through education and experience or training and
5 experience; or

6 (2) a person retained by an exempt commercial policyholder who
7 holds a professional designation relevant to the type of insurance
8 to be purchased by the exempt commercial policyholder.

9 SECTION 16. IC 27-1-22-4, AS AMENDED BY P.L.268-1999,
10 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2003]: Sec. 4. (a) Every insurer shall file with the
12 commissioner every manual of classifications, rules, and rates, every
13 rating schedule, every rating plan, and every modification of any of the
14 foregoing which it proposes to use.

15 (b) The following types of insurance are exempt from the
16 requirements of subsections (a) and (j):

17 (1) Inland marine risks, which by general custom of the business
18 are not written according to manual rates or rating plans.

19 (2) Insurance, other than workers compensation insurance or
20 professional liability insurance, issued to exempt commercial
21 policyholders.

22 (c) Every such filing shall indicate the character and extent of the
23 coverage contemplated and shall be accompanied by the information
24 upon which the filer supports such filing.

25 (d) The information furnished in support of a filing may include:

26 (1) the experience and judgment of the insurer or rating
27 organization making the filing;

28 (2) its interpretation of any statistical data it relies upon;

29 (3) the experience of other insurers or rating organizations; or

30 (4) any other relevant factors.

31 The commissioner shall have the right to request any additional
32 relevant information. A filing and any supporting information shall be
33 open to public inspection as soon as stamped "filed" within a
34 reasonable time after receipt by the commissioner, and copies may be
35 obtained by any person on request and upon payment of a reasonable
36 charge therefor.

37 (e) Filings shall become effective upon the date of filing by delivery
38 or upon date of mailing by registered mail to the commissioner, or on
39 a later date specified in the filing.

40 (f) Specific inland marine rates on risks specially rated, made by a
41 rating organization, shall be filed with the commissioner.

42 (g) Any insurer may satisfy its obligation to make any such filings

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by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

- (i) to make such filing as a rating organization filing;
- (ii) to make such filing on an agency basis solely on behalf of the requesting member; or
- (iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as ~~he~~ **the commissioner** shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as ~~he~~ **the commissioner** may deem advisable to ascertain

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whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating ~~his~~ **the insured's** reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance ~~agent, producer,~~ or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. ~~He~~ **The commissioner** shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.
- (2) The amount of aggregate annual commercial premium.
- (3) The inception date and expiration date of commercial insurance coverage provided by the insurer.
- (4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of

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1 calculating the required fee, each policy purchased by an exempt
 2 commercial policyholder shall be considered a product filing under
 3 IC 27-1-3-15(e).

4 SECTION 17. IC 27-1-22-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon ~~his own~~ **the**
 6 **commissioner's** motion, or upon written request by any insured
 7 affected thereby or by any licensed insurance ~~agent~~ **producer** or
 8 broker, if such request is made in good faith and states reasonable
 9 grounds, the commissioner, if ~~he~~ **the commissioner** shall have reason
 10 to believe that any filing is not in compliance with the applicable
 11 provisions of section 3 of this chapter, or in the case of an alleged
 12 violation of section 6 of the chapter if ~~he~~ **the commissioner** finds on
 13 the basis of the information on file with the department that there has
 14 been a prima facie showing of a violation of that section, shall hold a
 15 hearing upon not less than ten (10) days written notice to the rating
 16 organization or insurer which made the filing in issue, specifying the
 17 items and matters to be considered and stating in what manner and to
 18 what extent noncompliance is alleged to exist. No other matter or
 19 subject shall be considered at such hearing. Only the rating
 20 organization or insurer which made such filing and the commissioner
 21 may be parties to any hearing or to any judicial appeal resulting
 22 therefrom. Within a reasonable time, the commissioner shall notify
 23 every person making request as to ~~his~~ **the** decision as to the validity of
 24 the request and subsequently shall notify every such person of any
 25 action which may thereafter be taken with reference to such request.

26 (b) If, after such hearing, the commissioner finds, based upon a
 27 preponderance of the evidence adduced at such hearing and made a
 28 part of the record thereof, that such filing is not in compliance with the
 29 provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall
 30 immediately issue a written order to the parties specifying in detail in
 31 what respects and upon what evidence such noncompliance exists and
 32 stating when, within a reasonable period thereafter, such filing shall be
 33 deemed no longer effective. Said order shall not affect any contract
 34 policy made or issued prior to the expiration of the period set forth in
 35 said order.

36 (c) If after such hearing the commissioner finds that such filing does
 37 not violate the provisions of section 3 of this chapter, ~~he~~ **the**
 38 **commissioner** shall immediately issue a written order to the parties
 39 dismissing the proceedings.

40 (d) The finding and order of the commissioner shall be made within
 41 ninety (90) days after the close of such hearing or within such
 42 reasonable time extensions as may be fixed by the commissioner.

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(e) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to section 4 of this chapter shall be disapproved if the rates produced thereby meet the requirements of section 3 of this chapter.

(f) All actions of the commissioner under this chapter and all appeals from ~~his~~ **the commissioner's** action shall be governed by IC 4-21.5, except where a different specific provision is made in this chapter.

SECTION 18. IC 27-1-22-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective. If within such waiting period or after hearing as provided in this section, the commissioner finds that the filing or deviation does not meet the requirements of this chapter, ~~he~~ **the commissioner** shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what respects the filing or deviation fails to meet the requirements of this chapter and stating that the same shall not become effective. Such filing or deviation shall be deemed to meet the requirements of this act unless disapproved:

(1) within such waiting period; or

(2) if a hearing has been called and written notice thereof given by the commissioner during such waiting period, then within ten

(10) days after the date of commencement of such hearing.

Upon ~~his~~ **the commissioner's** own motion, or upon timely written request by any ~~agent~~ **insurance producer** or broker of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the commissioner may at any time within the waiting period call a hearing upon not less than ten (10) nor more than fifteen (15) days written notice to the company or rating organization making the filing or to the company filing the deviation. Within ten (10) days after the commencement of such hearing, the commissioner shall in writing

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1 either approve such filing or deviation or shall disapprove the same as
2 provided in this section.

3 SECTION 19. IC 27-1-22-18 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. No insurer, broker,
5 or **agent insurance producer** shall knowingly charge, demand, or
6 receive a premium for any policy of insurance except in accordance
7 with the provisions of this chapter. No insurer or employee thereof, and
8 no broker or **agent insurance producer** shall pay, allow, or give,
9 directly or indirectly, as an inducement to insurance, or after insurance
10 has been effected, any rebate, discount, abatement, credit, or reduction
11 of the premium named in a policy of insurance, or any special favor or
12 advantage in the dividends or other benefits to accrue thereon, or any
13 valuable consideration or inducement whatever, not specified in the
14 policy of insurance, except to the extent provided for in applicable
15 filings. No insured named in any policy of insurance shall knowingly
16 receive or accept, directly or indirectly, any such rebate, discount,
17 abatement, credit or reduction of premium, or any such special favor or
18 advantage or valuable consideration or inducement. Nothing in this
19 section shall be construed as prohibiting the payment of, nor permitting
20 the regulation of the payment of, commissions or other compensation
21 to duly licensed **agents insurance producers** and brokers, nor as
22 prohibiting, or permitting the regulation of, any insurer from allowing
23 or returning to its participating policyholders or members, dividends or
24 savings.

25 SECTION 20. IC 27-1-22-19 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Nothing in this
27 chapter abridges or restricts the freedom of contract of insurers, ~~agents,~~
28 **insurance producers**, or brokers with reference to the amount of
29 commission to be paid to **agents insurance producers** or brokers by
30 insurers, and such payments are expressly authorized.

31 SECTION 21. IC 27-1-25-1, AS AMENDED BY P.L.132-2001,
32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2003]: Sec. 1. As used in this chapter:

34 (a) "Administrator", except as provided in section 7.5 of this
35 chapter, means a person who collects charges or premiums from, or
36 who adjusts or settles claims on, residents of Indiana in connection
37 with life or health coverage or annuities, whether provided for by an
38 insurer or a self-funded plan. The term "administrator" does not include
39 the following persons:

- 40 (1) An employer for its employees or for the employees of a
41 subsidiary or affiliated corporation of the employer.
42 (2) A union for its members.



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(3) An insurer, including:

(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and

(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.

(4) A life or health insurance ~~agent~~ **producer** licensed under IC 27-1-15.6 whose activities are limited exclusively to the sale of insurance.

(5) A creditor for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities.

(9) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders as long as that company does not adjust or settle claims.

(10) An individual who adjusts or settles claims in the normal course of ~~his~~ **the individual's** practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(c) "Commissioner" refers to the commissioner of insurance.

(d) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(e) "Insurer" means a person who obtains a certificate of authority under IC 27-1-3-20.

(f) "Person" means an individual, a corporation, a partnership, a

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1 limited liability company, or an unincorporated association.

2 (g) "Self-funded plan" means a plan for providing benefits for life,
3 health, or annuity coverage by a person who is not an insurer.

4 SECTION 22. IC 27-1-27-1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public
6 adjuster" shall include every individual or corporation who, or which,
7 for compensation or reward, renders advice or assistance to the insured
8 in the adjustment of a claim or claims for loss or damages under any
9 policy of insurance covering real or personal property and any person
10 or corporation who, or which, advertises, solicits business, or holds
11 itself out to the public as an adjuster of such claims. However, no
12 public adjuster shall:

13 (1) act in any manner in relation to claims for personal injury or
14 automobile property damage; or

15 (2) bind the insured in the settlement of claims.

16 (b) This chapter does not apply to, and the following are not
17 included in the term "public adjuster":

18 (1) An attorney at law admitted to practice in the state of Indiana
19 who adjusts insurance losses in the course of the practice of ~~his~~
20 **the attorney's** profession.

21 (2) An officer, regular salaried employee, or other representative
22 of an insurer or of an attorney in fact of any reciprocal insurer of
23 Lloyd's underwriter licensed to do business in Indiana who adjusts
24 losses arising under ~~his~~ **an** employer's or principal's own policies.

25 (3) An adjustment bureau or association owned and maintained
26 by insurers to adjust or investigate losses of such insurers, or any
27 regular salaried employee who devotes substantially all ~~of his~~ **the**
28 **employee's** time to the business of such bureau or association.

29 (4) Any licensed ~~agent~~ **insurance producer** or an authorized
30 insurer or officer or employee of the same who adjusts losses for
31 such insurer, and any ~~agent~~ **insurance producer** or representative
32 of a farmers' mutual insurance company operating under the
33 farmers' mutual insurance laws of this state on behalf of an
34 insurer.

35 (5) Any independent adjuster representing an insurer.

36 SECTION 23. IC 27-1-27-4 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each applicant
38 for a certificate of authority as a public adjuster shall file with the
39 commissioner of insurance ~~his, or its,~~ **an** application therefor on forms
40 furnished by the commissioner of insurance, which application shall set
41 forth:

42 (1) the name and address of the applicant, and if the applicant be

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a corporation, the name and address of each of its officers and directors;

(2) whether the person is applying as a resident or nonresident;

(3) whether any license or certificate of authority as ~~agent~~, **insurance producer**, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of any other state, any territorial possession of the United States, or any foreign country to the applicant; and

(4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of ~~his~~ **the applicant's** employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1 of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of ~~his~~ **the principal's** duties under this title and under any rule of the department of insurance. The bond must be renewed annually.

SECTION 24. IC 27-1-34-8 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A reinsurer may
 2 not issue a policy of insurance to a multiple employer welfare
 3 arrangement that does not have a certificate of registration from the
 4 department.

5 (b) An ~~agent~~ **insurance producer** licensed by the department may
 6 not solicit, offer, or provide coverage through a multiple employer
 7 welfare arrangement that does not have a certificate of registration
 8 from the department.

9 (c) A reinsurer or ~~agent~~ **insurance producer** who knows or
 10 reasonably should have known that the arrangement does not have a
 11 current certificate of registration is liable for any claims for benefits
 12 that are due and unpaid.

13 SECTION 25. IC 27-1-36-46 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. (a) The comparison
 15 of an insurer's total adjusted capital to any of its RBC levels is a
 16 regulatory tool that may indicate the need for possible corrective action
 17 with respect to the insurer and it is not intended as a means to rank
 18 insurers generally. Except as provided in subsection (b), the action of
 19 an insurer, an ~~agent~~, **insurance producer**, a broker, or other person
 20 engaged in any manner in the insurance business, in:

21 (1) making, publishing, disseminating, circulating, or placing
 22 before the public; or

23 (2) causing, directly or indirectly to be made, published,
 24 disseminated, circulated, or placed before the public, in a
 25 newspaper, magazine, or other publication, or in the form of a
 26 notice, circular, pamphlet, letter, or poster, or over any radio or
 27 television station, or in any other way;

28 an advertisement, an announcement, or a statement containing an
 29 assertion, a representation, or a statement regarding the RBC level of
 30 an insurer or any component derived in the calculation of the RBC
 31 level of an insurer is misleading and is prohibited.

32 (b) If:

33 (1) a materially false statement with respect to the comparison
 34 regarding an insurer's total adjusted capital to an RBC level of the
 35 insurer or an inappropriate comparison of any other amount to the
 36 insurer's RBC levels is published in any written publication; and
 37 (2) the insurer is able to demonstrate to the commissioner with
 38 substantial proof the:

39 (A) falsity; or

40 (B) inappropriateness;
 41 of the statement;

42 the insurer may publish an announcement in a written publication if the

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sole purpose of the announcement is to rebut the materially false statement.

SECTION 26. IC 27-2-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "independent ~~agent~~ **insurance producer**" means an ~~agent~~ **insurance producer** who:

(1) represents an insurer in the sale of insurance as an independent contractor rather than as an employee; and

(2) is not limited to representing:

(A) one (1) insurer; or

(B) several insurers that are under common management.

SECTION 27. IC 27-2-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An insurance company that issues property or casualty insurance shall not discriminate in the appointment of an independent ~~agent~~ **insurance producer** on the basis of race, color, national origin, or gender.

(b) Except as provided in subsection (c), the department has exclusive jurisdiction to investigate any complaints of discrimination in the appointment of independent ~~agents~~ **insurance producers** in violation of subsection (a).

(c) If the commissioner of the department determines after a hearing that an insurance company has violated subsection (a), the commissioner may order one (1) of the following remedies:

(1) Payment of a civil penalty of not more than two thousand dollars (\$2,000) for each violation.

(2) Suspension or revocation of the insurance company's certificate of authority if the commissioner determines that the violation was willful or wanton and that similar violations have been committed by that company with a frequency that constitutes a general business practice.

(3) Any other remedy agreed to by the department and the insurance company.

(d) Any determination made by the commissioner under this section is subject to IC 4-21.5.

(e) Findings of the department under this section may not be considered as evidence in any civil action other than an appeal as provided under IC 4-21.5.

SECTION 28. IC 27-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any farmers' mutual insurance company,

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1 association, partnership, firm, reciprocal exchange, inter-insurer,
 2 Lloyds insurers, society, fraternal benefit society, lodge, order, council,
 3 corps, and any other association or legal entity, engaged in the business
 4 of insurance, including but not in limitation of the foregoing, ~~agents,~~
 5 **insurance producers**, brokers, solicitors, advisors, auditors, and
 6 adjusters.

7 (b) "Department" shall mean the department of insurance of this
 8 state created and defined as a department in the state government of the
 9 state of Indiana by IC 27-1.

10 (c) "Commissioner" shall mean the insurance commissioner of this
 11 state appointed pursuant to, and on and in whom the powers, duties,
 12 management, and control of the department are conferred and vested
 13 by, the provisions of IC 27-1.

14 SECTION 29. IC 27-4-1-4, AS AMENDED BY P.L.130-2002,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair
 17 methods of competition and unfair and deceptive acts and practices in
 18 the business of insurance:

19 (1) Making, issuing, circulating, or causing to be made, issued, or
 20 circulated, any estimate, illustration, circular, or statement:

21 (A) misrepresenting the terms of any policy issued or to be
 22 issued or the benefits or advantages promised thereby or the
 23 dividends or share of the surplus to be received thereon;

24 (B) making any false or misleading statement as to the
 25 dividends or share of surplus previously paid on similar
 26 policies;

27 (C) making any misleading representation or any
 28 misrepresentation as to the financial condition of any insurer,
 29 or as to the legal reserve system upon which any life insurer
 30 operates;

31 (D) using any name or title of any policy or class of policies
 32 misrepresenting the true nature thereof; or

33 (E) making any misrepresentation to any policyholder insured
 34 in any company for the purpose of inducing or tending to
 35 induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the**
 36 **policyholder's** insurance.

37 (2) Making, publishing, disseminating, circulating, or placing
 38 before the public, or causing, directly or indirectly, to be made,
 39 published, disseminated, circulated, or placed before the public,
 40 in a newspaper, magazine, or other publication, or in the form of
 41 a notice, circular, pamphlet, letter, or poster, or over any radio or
 42 television station, or in any other way, an advertisement,

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1 announcement, or statement containing any assertion,
 2 representation, or statement with respect to any person in the
 3 conduct of ~~his~~ **the person's** insurance business, which is untrue,
 4 deceptive, or misleading.

5 (3) Making, publishing, disseminating, or circulating, directly or
 6 indirectly, or aiding, abetting, or encouraging the making,
 7 publishing, disseminating, or circulating of any oral or written
 8 statement or any pamphlet, circular, article, or literature which is
 9 false, or maliciously critical of or derogatory to the financial
 10 condition of an insurer, and which is calculated to injure any
 11 person engaged in the business of insurance.

12 (4) Entering into any agreement to commit, or individually or by
 13 a concerted action committing any act of boycott, coercion, or
 14 intimidation resulting or tending to result in unreasonable
 15 restraint of, or a monopoly in, the business of insurance.

16 (5) Filing with any supervisory or other public official, or making,
 17 publishing, disseminating, circulating, or delivering to any person,
 18 or placing before the public, or causing directly or indirectly, to
 19 be made, published, disseminated, circulated, delivered to any
 20 person, or placed before the public, any false statement of
 21 financial condition of an insurer with intent to deceive. Making
 22 any false entry in any book, report, or statement of any insurer
 23 with intent to deceive any agent or examiner lawfully appointed
 24 to examine into its condition or into any of its affairs, or any
 25 public official to which such insurer is required by law to report,
 26 or which has authority by law to examine into its condition or into
 27 any of its affairs, or, with like intent, willfully omitting to make a
 28 true entry of any material fact pertaining to the business of such
 29 insurer in any book, report, or statement of such insurer.

30 (6) Issuing or delivering or permitting agents, officers, or
 31 employees to issue or deliver, agency company stock or other
 32 capital stock, or benefit certificates or shares in any common law
 33 corporation, or securities or any special or advisory board
 34 contracts or other contracts of any kind promising returns and
 35 profits as an inducement to insurance.

36 (7) Making or permitting any of the following:

37 (A) Unfair discrimination between individuals of the same
 38 class and equal expectation of life in the rates or assessments
 39 charged for any contract of life insurance or of life annuity or
 40 in the dividends or other benefits payable thereon, or in any
 41 other of the terms and conditions of such contract; however, in
 42 determining the class, consideration may be given to the

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1 nature of the risk, plan of insurance, the actual or expected
 2 expense of conducting the business, or any other relevant
 3 factor.

4 (B) Unfair discrimination between individuals of the same
 5 class involving essentially the same hazards in the amount of
 6 premium, policy fees, assessments, or rates charged or made
 7 for any policy or contract of accident or health insurance or in
 8 the benefits payable thereunder, or in any of the terms or
 9 conditions of such contract, or in any other manner whatever;
 10 however, in determining the class, consideration may be given
 11 to the nature of the risk, the plan of insurance, the actual or
 12 expected expense of conducting the business, or any other
 13 relevant factor.

14 (C) Excessive or inadequate charges for premiums, policy
 15 fees, assessments, or rates, or making or permitting any unfair
 16 discrimination between persons of the same class involving
 17 essentially the same hazards, in the amount of premiums,
 18 policy fees, assessments, or rates charged or made for:

19 (i) policies or contracts of reinsurance or joint reinsurance,
 20 or abstract and title insurance;

21 (ii) policies or contracts of insurance against loss or damage
 22 to aircraft, or against liability arising out of the ownership,
 23 maintenance, or use of any aircraft, or of vessels or craft,
 24 their cargoes, marine builders' risks, marine protection and
 25 indemnity, or other risks commonly insured under marine,
 26 as distinguished from inland marine, insurance; or

27 (iii) policies or contracts of any other kind or kinds of
 28 insurance whatsoever.

29 However, nothing contained in clause (C) shall be construed to
 30 apply to any of the kinds of insurance referred to in clauses (A)
 31 and (B) nor to reinsurance in relation to such kinds of insurance.
 32 Nothing in clause (A), (B), or (C) shall be construed as making or
 33 permitting any excessive, inadequate, or unfairly discriminatory
 34 charge or rate or any charge or rate determined by the department
 35 or commissioner to meet the requirements of any other insurance
 36 rate regulatory law of this state.

37 (8) Except as otherwise expressly provided by law, knowingly
 38 permitting or offering to make or making any contract or policy
 39 of insurance of any kind or kinds whatsoever, including but not in
 40 limitation, life annuities, or agreement as to such contract or
 41 policy other than as plainly expressed in such contract or policy
 42 issued thereon, or paying or allowing, or giving or offering to pay,

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allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ **insurance producer** thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ **insurance producer** thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent~~, **insurance producer**, or solicitor duly licensed under the laws of this state, but such broker, ~~agent~~, **insurance producer**, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

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(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ **producer** or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ **the** right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ **insurance producers** or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent,~~ **insurance producer**, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of ~~his, her, or its~~ **the** right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

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- 1 (A) Insurance issued to credit unions or members of credit
- 2 unions in connection with the purchase of shares in such credit
- 3 unions.
- 4 (B) Insurance employed as a means of guaranteeing the
- 5 performance of goods and designed to benefit the purchasers
- 6 or users of such goods.
- 7 (C) Title insurance.
- 8 (D) Insurance written in connection with an indebtedness and
- 9 intended as a means of repaying such indebtedness in the
- 10 event of the death or disability of the insured.
- 11 (E) Insurance provided by or through motorists service clubs
- 12 or associations.
- 13 (F) Insurance that is provided to the purchaser or holder of an
- 14 air transportation ticket and that:
- 15 (i) insures against death or nonfatal injury that occurs during
- 16 the flight to which the ticket relates;
- 17 (ii) insures against personal injury or property damage that
- 18 occurs during travel to or from the airport in a common
- 19 carrier immediately before or after the flight;
- 20 (iii) insures against baggage loss during the flight to which
- 21 the ticket relates; or
- 22 (iv) insures against a flight cancellation to which the ticket
- 23 relates.
- 24 (14) Refusing, because of the for-profit status of a hospital or
- 25 medical facility, to make payments otherwise required to be made
- 26 under a contract or policy of insurance for charges incurred by an
- 27 insured in such a for-profit hospital or other for-profit medical
- 28 facility licensed by the state department of health.
- 29 (15) Refusing to insure an individual, refusing to continue to issue
- 30 insurance to an individual, limiting the amount, extent, or kind of
- 31 coverage available to an individual, or charging an individual a
- 32 different rate for the same coverage, solely because of that
- 33 individual's blindness or partial blindness, except where the
- 34 refusal, limitation, or rate differential is based on sound actuarial
- 35 principles or is related to actual or reasonably anticipated
- 36 experience.
- 37 (16) Committing or performing, with such frequency as to
- 38 indicate a general practice, unfair claim settlement practices (as
- 39 defined in section 4.5 of this chapter).
- 40 (17) Between policy renewal dates, unilaterally canceling an
- 41 individual's coverage under an individual or group health
- 42 insurance policy solely because of the individual's medical or

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1 physical condition.

2 (18) Using a policy form or rider that would permit a cancellation
3 of coverage as described in subdivision (17).

4 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
5 vehicle insurance rates.

6 (20) Violating IC 27-8-21-2 concerning advertisements referring
7 to interest rate guarantees.

8 (21) Violating IC 27-8-24.3 concerning insurance and health plan
9 coverage for victims of abuse.

10 (22) Violating IC 27-8-26 concerning genetic screening or testing.

11 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
12 insurance producers.

13 (24) Violating IC 27-1-38 concerning depository institutions.

14 SECTION 30. IC 27-4-3-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is hereby declared
16 unlawful for any two (2) or more insurance companies writing the same
17 class, or classes, of risks and doing business in this state, directly or
18 indirectly, to enter into any arrangement, contract, agreement,
19 understanding, combination or association to require, coerce or induce
20 any ~~agent~~ **insurance producer** or representative of any two (2) or more
21 of such insurance companies within the state of Indiana to refrain from
22 representing other such insurance companies, or to afford any
23 advantage to any ~~such agent~~ **insurance producer** to refrain from
24 representing other such insurance companies or to impose upon ~~such~~
25 ~~agent~~ **the insurance producer** any disadvantage by reason of ~~his~~ **the**
26 **insurance producer's** acting as representative of other such insurance
27 companies.

28 SECTION 31. IC 27-4-3-2 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) It ~~shall be~~ **is**
30 unlawful for any insurance ~~agent~~ **producer** representing or acting for
31 two (2) or more insurance companies writing the same class or classes,
32 of risks to enter, either directly or indirectly, into any agreement,
33 arrangement, contract or understanding with one (1) or more of such
34 companies that ~~he~~ **the insurance producer** will refrain from
35 representing any other like company or companies, and it ~~shall be~~ **is**
36 unlawful for any such insurance company, not having a contract
37 requiring an ~~agent~~ **insurance producer** to represent ~~it~~ **the insurance**
38 **company** alone, in any manner to require, coerce, or induce any ~~agent~~
39 **insurance producer** to refrain from representing any other like
40 company or companies.

41 ~~Provided, however, That this shall not be construed to~~ (b) **This**
42 **section does not** prevent any insurance company or ~~agent~~ **insurance**

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1 **producer** from at any time entering into a bona fide contract whereby
 2 ~~such agent an insurance producer~~ agrees that ~~he the insurance~~
 3 **producer** will thereafter represent a single company exclusively.

4 SECTION 32. IC 27-4-3-3 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. For violation of any
 6 provision of this chapter, the license of the offending company or ~~agent~~
 7 **insurance producer** to transact the business of insurance within the
 8 state of Indiana shall be suspended for a period of three (3) years.
 9 Whenever information of any such violation shall come to the
 10 knowledge of the commissioner of insurance, ~~he the commissioner~~
 11 shall issue an order fixing a day certain, not more than thirty (30) nor
 12 less than twenty (20) days from the making thereof, upon which the
 13 offender shall appear and show cause why such penalty should not be
 14 enforced, such order specifying with reasonable certainty the violation
 15 charged, and if, after hearing, the commissioner shall determine that
 16 the company or ~~agent insurance producer~~ is guilty of such violation,
 17 ~~he the commissioner~~ shall forthwith suspend the license of the
 18 offender for a period of three (3) years. Such hearing shall be public,
 19 and at any such hearing any person or corporation having lodged
 20 information of such violation with the commissioner shall be entitled
 21 to be present and submit evidence. Within thirty (30) days after the
 22 suspension of any such license, the ~~agent insurance producer~~ or
 23 company whose license has been suspended may appeal from the
 24 ruling of the commissioner of insurance to the circuit or superior court
 25 of the county in which ~~such agent the insurance producer~~ resides or
 26 in which such company has its principal place of business, and if such
 27 company be a foreign insurance company then such appeal may be
 28 taken by such company to the circuit or superior court of Marion
 29 County.

30 SECTION 33. IC 27-5-3-3, AS AMENDED BY P.L.132-2001,
 31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2003]: Sec. 3. (a) With respect to writing, making, or taking
 33 the kinds of insurance specifically excepted in IC 27-5-2-1(1)(B) and
 34 with respect to writing, making, or taking liability insurance, worker's
 35 compensation, fidelity, and surety insurance such farmers' mutual
 36 insurance company shall be subject to the following statutes, anything
 37 in IC 27-1 or IC 27-5-1 to the contrary notwithstanding:

38 (1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14,
 39 IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21,
 40 IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3,
 41 IC 27-1-13-4, IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8,
 42 IC 27-1-13-9, IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6,



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1 IC 27-1-20-9, IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14,
 2 IC 27-1-20-19, IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23,
 3 ~~IC 27-1-20-24~~, and IC 27-1-20-30.

4 (2) All of IC 27-1-22.

5 (3) IC 27-1-13-7.

6 (4) All of IC 27-7-2.

7 (b) An ~~agent~~ **insurance producer** representing a farmers' mutual
 8 insurance company with respect to insurance authorized to be written
 9 by this chapter and not authorized before March 13, 1953, to be written
 10 by a farmers' mutual insurance company shall comply with
 11 IC 27-1-15.6.

12 SECTION 34. IC 27-5-4-2, AS AMENDED BY P.L.132-2001,
 13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2003]: Sec. 2. Any such farmers' mutual insurance company
 15 may elect to become subject to the provisions of IC 27-1 as provided
 16 by IC 27-1-11-1 and thereafter may avail itself of all rights, privileges,
 17 and franchises provided by IC 27-1 in accordance with IC 27-1.
 18 Nothing contained in IC 27-1 shall affect or invalidate any policies
 19 issued or bound by such company and in full force and effect at the
 20 time said election becomes effective, but any such policy or contract of
 21 insurance and the rights and obligations thereunder may continue in
 22 full force and effect until expiration or termination; provided, that not
 23 later than five (5) years following the effective date of said election, all
 24 such policies or contracts of insurance shall be subject to the provisions
 25 of IC 27-1. Any ~~agent~~ **insurance producer** or representative of such
 26 company who is exempt from the provisions of IC 27-1-15.6 at the time
 27 said election becomes effective may continue to represent such
 28 company only within the scope of such existing representation without
 29 compliance with the provisions of IC 27-1-15.6 for a period not to
 30 exceed one (1) year following the effective date of said election, but
 31 thereafter such representation shall be subject to compliance with
 32 IC 27-1-15.6. Such election provided for in this section shall become
 33 effective upon the date of issuance of the new certificate of authority
 34 pursuant to IC 27-1-11-7.

35 SECTION 35. IC 27-6-8-9 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The
 37 commissioner shall:

38 (i) Notify the association of the existence of an insolvent insurer
 39 not later than three (3) working days after ~~he~~ **the commissioner**
 40 receives an order of liquidation.

41 (ii) Upon request of the board of directors, provide the association
 42 with a statement of the net direct written premiums of each

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member insurer.

(b) The commissioner may:

(i) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the order of liquidation and of their rights under this chapter. This notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation in all counties in which the insolvent insurer transacted insurance business shall be sufficient.

(ii) Require each **agent insurance producer** of the insolvent insurer to give prompt written notice by first class mail of such insolvency and the rights of the insured under this chapter to each insured of the insolvent insurer for whom ~~he~~ **the insurance producer** is **agent insurance producer** of record, at such insured's last known address.

(iii) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed five percent (5%) of the unpaid assessment per month, except that no fine shall be less than one hundred dollars (\$100) per month.

(iv) Revoke the designation of any servicing facility if ~~he~~ **the commissioner** finds claims are being handled unsatisfactorily.

(v) Any final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

SECTION 36. IC 27-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (Effect of Paid Claims) (a) Any person recovering under this chapter shall be deemed to have assigned ~~his~~ **the person's** rights under the policy to the association to the extent of ~~his~~ **the person's** recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as the person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of

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claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments previously made and no assessment shall be thereafter made for the purpose of reimbursing the association.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state functioning pursuant to IC 27-6-8-8(d). The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

(d) The association shall have a right to recover from the ~~agent~~ **insurance producer** of record any part of the paid claim for unearned premium that represents unearned commission to the ~~agent~~ **insurance producer**.

SECTION 37. IC 27-6-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. No person, including an insurer, ~~agent~~, **insurance producer**, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Indiana insurance guaranty association law. ~~Provided~~, However, this section does not apply to Indiana insurance guaranty association or to any other entity which does not sell or solicit insurance.

SECTION 38. IC 27-6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this chapter, "licensed producer" means an ~~agent~~, **insurance producer**, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.



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SECTION 39. IC 27-7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. No notice of cancellation of a policy to which section 4 of this chapter applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days notice of cancellation accompanied by the reason therefor shall be given. In the event such policy was procured by an ~~agent~~ **insurance producer** duly licensed by the state of Indiana, notice of intent to cancel shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ **the insurance producer**. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation. This section shall not apply to nonrenewal.

SECTION 40. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a)** No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an ~~agent~~ **insurance producer** duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ **the insurance producer**.

(b) This section shall not apply:

~~(a)~~ **(1)** if the insurer has manifested its willingness to renew; ~~not~~
or

~~(b)~~ **(2)** in case of nonpayment of premium.

~~Provided, That,~~ **However,** notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.



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1 SECTION 41. IC 27-7-6-10 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. There shall be no
 3 liability on the part of and no cause of action of any nature shall arise
 4 against the commissioner of insurance or against any insurer, its
 5 authorized representative, its ~~agents~~, **insurance producers**, its
 6 employees, or any firm, person, limited liability company, or
 7 corporation furnishing to the insurer information as to reasons for
 8 cancellation, for any statement made by any of them in any written
 9 notice of cancellation, or in any other communication, oral or written
 10 specifying the reasons for cancellation, or the providing of information
 11 pertaining thereto, or for statements made or evidence submitted at any
 12 hearings conducted in connection therewith.

13 SECTION 42. IC 27-7-9-9, AS AMENDED BY P.L.182-2001,
 14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]: Sec. 9. (a) An insurer making the type of insurance
 16 described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance
 17 agreement with the commissioner. The reinsurance agreement must
 18 include the following terms:

19 (1) The insurer agrees to cede to the commissioner one hundred
 20 percent (100%) of any mine subsidence coverage issued under
 21 this chapter, subject to a maximum limit of two hundred thousand
 22 dollars (\$200,000) per structure insured.

23 (2) The insurer shall collect the premiums for mine subsidence
 24 insurance, may retain a ceding commission in an amount set by
 25 the commissioner, and shall remit the remainder of the premiums
 26 to the commissioner for deposit in the mine subsidence insurance
 27 fund.

28 (3) The insurer, in consideration of the ceding commission, shall:
 29 (A) undertake the adjustment of losses under the mine
 30 subsidence coverage issued under this chapter by the insurer,
 31 with technical assistance provided under section 9.5 of this
 32 chapter; and

33 (B) pay the taxes and absorb all other expenses necessarily
 34 incurred by the insurer in the sale of policies and the
 35 administration of the mine subsidence insurance program
 36 under this chapter.

37 (4) The commissioner shall reimburse the insurer from the mine
 38 subsidence insurance fund for all amounts paid to policyholders
 39 for mine subsidence insurance claims.

40 (5) The insurer is not required to pay a claim for any mine
 41 subsidence loss insured under this chapter if the amount available
 42 in the mine subsidence insurance fund is insufficient to reimburse

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the insurer for the claim.

(b) The determination of the commissioner as to the amount of the ceding commission that an insurer may retain under subsection (a)(2) must be based on a consideration of the insurer's reasonable administrative costs (including **agents' insurance producers'** commissions).

SECTION 43. IC 27-7-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) A risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within Indiana, and shall report to the commissioner of this state the net premiums written for risks resident or located within Indiana. A risk retention group that is chartered and licensed in a state other than Indiana is subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall report to the commissioner the premiums for direct business for risks resident or located within Indiana that the **agent insurance producer** has placed with or on behalf of a risk retention group that is not chartered in Indiana.

(c) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall keep a complete and separate record of all policies procured from each such risk retention group. The record kept under this subsection must be open to examination by the commissioner and must, for each policy and each kind of insurance provided, include the following information:

- (1) The limit of liability.
- (2) The time period covered.
- (3) The effective date.
- (4) The name of the risk retention group that issued the policy.
- (5) The gross premium charged.
- (6) The amount of return premiums, if any.

SECTION 44. IC 27-7-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed **agent insurance producer** or broker acting under

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1 the surplus lines laws and regulations of that state.

2 (b) A purchasing group that obtains liability insurance from an
3 insurer that is not admitted in Indiana or from a risk retention group
4 shall inform each of the members of the group who have a risk resident
5 or located in Indiana that the risk is not protected by an insurance
6 insolvency guaranty fund in Indiana and that the risk retention group
7 or insurer may not be subject to all insurance laws and rules of Indiana.

8 (c) No purchasing group may purchase insurance providing for a
9 deductible or self-insured retention applicable to the group as a whole.
10 However, coverage may provide for a deductible or self-insured
11 retention applicable to individual members of the purchasing group.

12 (d) Purchases of insurance by purchasing groups are subject to the
13 same standards regarding aggregate limits that are applicable to all
14 purchases of group insurance.

15 SECTION 45. IC 27-7-10-28 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. Premium taxes and
17 taxes on premiums paid for coverage of risks resident or located in
18 Indiana by a purchasing group or any member of a purchasing group
19 shall be:

20 (1) imposed at the same rate and subject to the same interest,
21 fines, and penalties that apply to premium taxes and taxes on
22 premiums paid for similar coverage from a similar insurance
23 source by other insureds; and

24 (2) paid first by the insurance source, and if not by the insurance
25 source, then by the **agent insurance producer** or broker for the
26 purchasing group, and if not by the **agent insurance producer** or
27 broker, then by the purchasing group, and if not by the purchasing
28 group, then by each of its members.

29 SECTION 46. IC 27-7-10-30, AS AMENDED BY P.L.132-2001,
30 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 30. No individual, firm, association, limited
32 liability company, or corporation may act or aid in any manner in
33 soliciting, negotiating, or procuring liability insurance in Indiana from
34 a risk retention group unless the individual, firm, association, or
35 corporation is licensed as an insurance **agent producer** under
36 IC 27-1-15.6.

37 SECTION 47. IC 27-7-10-31, AS AMENDED BY P.L.132-2001,
38 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2003]: Sec. 31. (a) No individual, firm, association, or
40 corporation may act or aid in any manner in soliciting, negotiating, or
41 procuring liability insurance in Indiana for a purchasing group from an
42 authorized insurer or a risk retention group chartered in a state unless

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the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(b) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in Indiana for any member of a purchasing group under a purchasing group's policy unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(c) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in Indiana on behalf of a purchasing group located in Indiana unless the individual, firm, association, or corporation is licensed as a surplus lines **agent producer** under IC 27-1-15.8.

SECTION 48. IC 27-7-10-32, AS AMENDED BY P.L.132-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) For purposes of acting as an **agent insurance producer** for a risk retention group or purchasing group under section 30 or 31 of this chapter, the requirement of residence in Indiana does not apply.

(b) Every individual, firm, association, or corporation licensed under IC 27-1-15.6, in regard to business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by section 18 of this chapter in the case of a risk retention group and section 27(c) of this chapter in the case of a purchasing group.

SECTION 49. IC 27-7-12-3, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the

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1 policy; and

2 (3) ten (10) days before canceling a policy, if the cancellation
3 occurs not more than sixty (60) days after the date of issuance of
4 the policy.

5 (c) If the policy was procured by an independent ~~agent~~ **insurance**
6 **producer** licensed in Indiana, the insurer shall deliver or mail notice
7 of cancellation to the ~~agent~~ **insurance producer** not less than ten (10)
8 days before the insurer delivers or mails the notice to the named
9 insured, unless the obligation to notify the ~~agent~~ **insurance producer**
10 is waived in writing by the ~~agent~~ **insurance producer**.

11 SECTION 50. IC 27-7-12-4, AS ADDED BY P.L.203-2001,
12 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2003]: Sec. 4. (a) Notice of nonrenewal by an insurer must:

14 (1) be in writing;

15 (2) be delivered or mailed to the named insured at the last known
16 address of the named insured;

17 (3) state the insurer's intention not to renew the policy upon
18 expiration of the current policy period;

19 (4) upon request of the named insured, be accompanied by a
20 written explanation of the specific reasons for the nonrenewal;
21 and

22 (5) be provided to the named insured at least twenty (20) days
23 before the expiration of the current policy period.

24 (b) If the policy was procured by an independent ~~agent~~ **insurance**
25 **producer** licensed in Indiana, the insurer shall deliver or mail notice
26 of nonrenewal to the ~~agent~~ **insurance producer** not less than ten (10)
27 days before the insurer delivers or mails the notice to the named
28 insured, unless the obligation to notify the ~~agent~~ **insurance producer**
29 is waived in writing by the ~~agent~~ **insurance producer**.

30 (c) If an insurer mails or delivers to an insured a renewal notice, bill,
31 certificate, or policy indicating the insurer's willingness to renew a
32 policy and the insured does not respond, the insurer is not required to
33 provide to the insured notice of intention not to renew.

34 SECTION 51. IC 27-7-12-9, AS ADDED BY P.L.203-2001,
35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2003]: Sec. 9. (a) The following persons are immune from
37 civil liability for any communication giving notice of or specifying the
38 reasons for a termination or for any statement made in connection with
39 an attempt to discover or verify the existence of conditions that would
40 be a reason for a termination under this chapter:

41 (1) Employees of the department of insurance.

42 (2) An insurer or its authorized representative, agent, or

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employee.

(3) A licensed insurance ~~agent~~ **producer**.

(4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

SECTION 52. IC 27-8-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The provisions of this chapter shall in no way apply to any secret or fraternal society or lodge or association which, under the supervision of a grand or supreme lodge, secures membership through the lodge system exclusively, and provides insurance to its members, nor to insurance organizations of a purely benevolent character which pay no commission nor employ any paid ~~agent~~ **insurance producer**, organized under the laws of this or any other state.

SECTION 53. IC 27-8-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. The fees to be paid by each such corporation, association, or society to the insurance commissioner for the authority to such corporation, association, or society, and its ~~agents~~ **insurance producers** under the license granted by him to each corporation, association, or society, to transact business in the state of Indiana shall be as follows:

For filing copy of charter or articles of incorporation, twenty-five dollars (\$25).

For filing each annual statement, twenty dollars (\$20).

For issuing certificate of authority or license to company, corporation, association or society, one dollar (\$1).

For issuing license to each ~~agent~~ **insurance producer**, one dollar (\$1).

For affixing seal and certifying to any paper, one dollar (\$1).

For renewal of license, each such corporation, association, or society shall file with the commissioner its annual statement, for which it shall pay the sum of twenty dollars (\$20).

~~For issuing license to each agent, one dollar (\$1):~~

~~For affixing seal and certifying any paper, one dollar (\$1):~~

For the privilege of transacting business in this state, a foreign or alien company, association, or society, admitted and licensed under this chapter, shall pay an annual tax upon premiums or assessments derived from business written within this state, such tax to be as defined and determined under IC 27-1-18-2, which is declared to be applicable in its terms and provisions to such a company, association, or society; provided also, that when any other state or country shall impose any

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obligations in excess of those imposed by this chapter upon any such corporation, association, or society of this state, a like obligation shall be imposed on similar corporations and their agents of such state or country doing business in this state; and provided also, that such corporation, association, or society, in transacting business in this state, shall be subject only to the provisions of this chapter.

SECTION 54. IC 27-8-5-3, AS AMENDED BY P.L.162-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (c), each policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section. However, the insurer may, at its option, substitute for one (1) or more of the provisions corresponding provisions of different wording approved by the commissioner that are in each instance no less favorable in any respect to the insured or the beneficiary. The provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows: ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No ~~agent~~ **insurance producer** has authority to change this policy or to waive any of its provisions.

(2) A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: (A) After two (2) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two (2) year period.

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy of denial of a claim during such initial two (2) year period, nor to limit the application of subsection (b), (1), (2), (3), (4), and (5) in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium:

(1) until at least age fifty (50); or

(2) in the case of a policy issued after forty-four (44) years of age,



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for at least five (5) years from its date of issue;
 may contain in lieu of the foregoing the following provision (from
 which the clause in parentheses may be omitted at the insurer's option)
 under the caption "INCONTESTABLE": After this policy has been in
 force for a period of two (2) years during the lifetime of the insured
 (excluding any period during which the insured is disabled), it shall
 become incontestable as to the statements contained in the application.

(B) No claim for loss incurred or disability (as defined in the policy)
 commencing after two (2) years from the date of issue of this policy
 shall be reduced or denied on the ground that a disease or physical
 condition, not excluded from coverage by name or specific description
 effective on the date of loss, had existed prior to the effective date of
 coverage of this policy.

(3) A provision as follows: GRACE PERIOD: A grace period of
 (insert a number not less than "7" for weekly premium policies, "10"
 for monthly premium policies and "31" for all other policies) days will
 be granted for the payment of each premium falling due after the first
 premium, during which grace period the policy shall continue in force.

A policy in which the insurer reserves the right to refuse renewal
 shall have, at the beginning of the above provision: "Unless not less
 than thirty (30) days prior to the premium due date the insurer has
 delivered to the insured or has mailed to the insured's last address as
 shown by the records of the insurer written notice of its intention not
 to renew this policy beyond the period for which the premium has been
 accepted."

Each policy in which the insurer reserves the right to refuse renewal
 on an individual basis shall provide, in substance, in a provision of the
 policy, in an endorsement on the policy, or in a rider attached to the
 policy, that subject to the right to terminate the policy upon
 non-payment of premium when due, such right to refuse renewal shall
 not be exercised before the renewal date occurring on, or after and
 nearest, each anniversary, or in the case of lapse and reinstatement at
 the renewal date occurring on, or after and nearest, each anniversary of
 the last reinstatement, and that any refusal or renewal shall be without
 prejudice to any claim originating while the policy is in force. The
 preceding sentence shall not apply to accident insurance only policies.

(4) A provision as follows: REINSTATEMENT: If any renewal
 premium is not paid within the time granted the insured for payment,
 a subsequent acceptance of premium by the insurer or by any agent
 authorized by the insurer to accept such premium, without requiring in
 connection therewith an application for reinstatement, shall reinstate
 the policy. Provided, that if the insurer or such agent requires an

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1 application for reinstatement and issues a conditional receipt for the
 2 premium tendered, the policy will be reinstated upon approval of such
 3 application by the insurer or, lacking such approval, upon the forty-fifth
 4 day following the date of such conditional receipt unless the insurer has
 5 previously notified the insured in writing of its disapproval of such
 6 application. The reinstated policy shall cover only loss resulting from
 7 such accidental injury as may be sustained after the date of
 8 reinstatement and loss due to such sickness as may begin more than ten
 9 (10) days after such date. In all other respects the insured and insurer
 10 shall have the same rights as they had under the policy immediately
 11 before the due date of the defaulted premium, subject to any provisions
 12 endorsed hereon or attached hereto in connection with the
 13 reinstatement. Any premium accepted in connection with a
 14 reinstatement shall be applied to a period for which premium has not
 15 been previously paid, but not to any period more than sixty (60) days
 16 prior to the date of reinstatement.

17 The last sentence of the above provision may be omitted from any
 18 policy which the insured has the right to continue in force subject to its
 19 terms by the timely payment of premiums:

20 (1) until at least fifty (50) years of age; or

21 (2) in the case of a policy issued after forty-four (44) years of age,
 22 for at least five (5) years from its date of issue.

23 (5) A provision as follows: NOTICE OF CLAIM: Written notice of
 24 claim must be given to the insurer within twenty (20) days after the
 25 occurrence or commencement of any loss covered by the policy, or as
 26 soon thereafter as is reasonably possible. Notice given by or on behalf
 27 of the insured or the beneficiary to the insurer at _____ (insert the
 28 location of such office as the insurer may designate for the purpose), or
 29 to any authorized agent of the insurer, with information sufficient to
 30 identify the insured, shall be deemed notice to the insurer.

31 In a policy providing a loss-of-time benefit which may be payable
 32 for at least two (2) years, an insurer may insert the following between
 33 the first and second sentences of the above provision:

34 Subject to the qualifications set forth below, if the insured suffers
 35 loss of time on account of disability for which indemnity may be
 36 payable for at least two (2) years, the insured shall, at least once in
 37 every six (6) months after having given notice of claim, give to the
 38 insurer notice of continuance of said disability, except in the event of
 39 legal incapacity. The period of six (6) months following any filing of
 40 proof by the insured or any payment by the insurer on account of such
 41 claim or any denial of liability in whole or in part by the insurer shall
 42 be excluded in applying this provision. Delay in the giving of such

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notice shall not impair the insurer's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given.

(6) A provision as follows: CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character, and the extent of the loss for which claim is made.

(7) A provision as follows: PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required.

(8) A provision as follows: TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid:

(1) immediately upon receipt of due written proof of such loss; or

(2) in accordance with IC 27-8-5.7;

whichever is more favorable to the policyholder. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____ (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof. This provision must reflect compliance with IC 27-8-5.7.

(9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid

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1 either to such beneficiary or to such estate. All other indemnities will
2 be payable to the insured.

3 The following provisions, or either of them, may be included with
4 the foregoing provision at the option of the insurer:

5 If any indemnity of this policy shall be payable to the estate of the
6 insured, or to an insured or beneficiary who is a minor or otherwise not
7 competent to give a valid release, the insurer may pay such indemnity,
8 up to an amount not exceeding \$ _____ (insert an amount which
9 shall not exceed \$1,000), to any relative by blood or connection by
10 marriage of the insured or beneficiary who is deemed by the insurer to
11 be equitably entitled thereto. Any payment made by the insurer in good
12 faith pursuant to this provision shall fully discharge the insurer to the
13 extent of such payment.

14 Subject to any written direction of the insured in the application or
15 otherwise all or a portion of any indemnities provided by this policy on
16 account of hospital, nursing, medical, or surgical services may, at the
17 insurer's option and unless the insured requests otherwise in writing not
18 later than the time of filing proofs of such loss, be paid directly to the
19 hospital or person rendering such services; but it is not required that the
20 service be rendered by a particular hospital or person.

21 For the purposes of this section a "minor" is a person under the age
22 of eighteen (18) years. A person eighteen (18) years of age or over is
23 competent, insofar as the person's age is concerned, to sign a valid
24 release.

25 (10) A provision as follows: PHYSICAL EXAMINATIONS AND
26 AUTOPSY: The insurer at its own expense shall have the right and
27 opportunity to examine the person of the insured when and as often as
28 it may reasonably require during the pendency of a claim hereunder
29 and to make an autopsy in case of death where it is not forbidden by
30 law.

31 (11) A provision as follows: LEGAL ACTIONS: No action at law
32 or in equity shall be brought to recover on this policy prior to the
33 expiration of sixty (60) days after written proof of loss has been
34 furnished in accordance with the requirements of this policy. No such
35 action shall be brought after the expiration of three (3) years after the
36 time written proof of loss is required to be furnished.

37 (12) A provision as follows: CHANGE OF BENEFICIARY: Unless
38 the insured makes an irrevocable designation of beneficiary, the right
39 to change of beneficiary is reserved to the insured and the consent of
40 the beneficiary or beneficiaries shall not be requisite to surrender or
41 assignment of this policy or to any change of beneficiary or
42 beneficiaries, or to any other changes in this policy.



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1 The first clause of this provision, relating to the irrevocable
2 designation of beneficiary, may be omitted at the insurer's option.

3 (13) A provision as follows: GUARANTEED RENEWABILITY:
4 In compliance with the federal Health Insurance Portability and
5 Accountability Act of 1996 (P.L.104-191), renewability is guaranteed.

6 (b) Except as provided in subsection (c), no policy delivered or
7 issued for delivery to any person in Indiana shall contain provisions
8 respecting the matters set forth below unless the provisions are in the
9 words in which the provisions appear in this section. However, the
10 insurer may use, instead of any provision, a corresponding provision of
11 different wording approved by the commissioner which is not less
12 favorable in any respect to the insured or the beneficiary. Any
13 substitute provision contained in the policy shall be preceded
14 individually by the appropriate caption appearing in this subsection or,
15 at the option of the insurer, by appropriate individual or group captions
16 or subcaptions as the commissioner may approve.

17 (1) A provision as follows: CHANGE OF OCCUPATION: If the
18 insured be injured or contract sickness after having changed the
19 insured's occupation to one classified by the insurer as more hazardous
20 than that stated in this policy or while doing for compensation anything
21 pertaining to an occupation so classified, the insurer will pay only such
22 portion of the indemnities provided in this policy as the premium paid
23 would have purchased at the rates and within the limits fixed by the
24 insurer for such more hazardous occupation. If the insured changes the
25 insured's occupation to one classified by the insurer as less hazardous
26 than that stated in this policy, the insurer, upon receipt of proof of such
27 change of occupation, will reduce the premium rate accordingly, and
28 will return the excess pro rata unearned premium from the date of
29 change of occupation or from the policy anniversary date immediately
30 preceding receipt of such proof, whichever is the more recent. In
31 applying this provision, the classification of occupational risk and the
32 premium rates shall be such as have been last filed by the insurer prior
33 to the occurrence of the loss for which the insurer is liable or prior to
34 date of proof of change in occupation with the state official having
35 supervision of insurance in the state where the insured resided at the
36 time this policy was issued; but if such filing was not required, then the
37 classification of occupational risk and the premium rates shall be those
38 last made effective by the insurer in such state prior to the occurrence
39 of the loss or prior to the date of proof of change in occupation.

40 (2) A provision as follows: MISSTATEMENT OF AGE: If the age
41 of the insured has been misstated, all amounts payable under this policy
42 shall be such as the premium paid would have purchased at the correct

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1 age.

2 (3) A provision as follows: OTHER INSURANCE IN THIS
 3 INSURER: If an accident or sickness or accident and sickness policy
 4 or policies previously issued by the insurer to the insured are in force
 5 concurrently herewith, making the aggregate indemnity for _____
 6 (insert type of coverage or coverages) in excess of \$ _____ (insert
 7 maximum limit of indemnity or indemnities) the excess insurance shall
 8 be void and all premiums paid for such excess shall be returned to the
 9 insured or to the insured's estate. Or, instead of that provision:
 10 Insurance effective at any one (1) time on the insured under a like
 11 policy or policies, in this insurer is limited to the one (1) such policy
 12 elected by the insured, the insured's beneficiary or the insured's estate,
 13 as the case may be, and the insurer will return all premiums paid for all
 14 other such policies.

15 (4) A provision as follows: INSURANCE WITH OTHER
 16 INSURER: If there is other valid coverage, not with this insurer,
 17 providing benefits for the same loss on a provision of service basis or
 18 on an expense incurred basis and of which this insurer has not been
 19 given written notice prior to the occurrence or commencement of loss,
 20 the only liability under any expense incurred coverage of this policy
 21 shall be for such proportion of the loss as the amount which would
 22 otherwise have been payable hereunder plus the total of the like
 23 amounts under all such other valid coverages for the same loss of
 24 which this insurer had notice bears to the total like amounts under all
 25 valid coverages for such loss, and for the return of such portion of the
 26 premiums paid as shall exceed the pro-rata portion of the amount so
 27 determined. For the purpose of applying this provision when other
 28 coverage is on a provision of service basis, the "like amount" of such
 29 other coverage shall be taken as the amount which the services
 30 rendered would have cost in the absence of such coverage.

31 If the foregoing policy provision is included in a policy which also
 32 contains the next following policy provision there shall be added to the
 33 caption of the foregoing provision the phrase "EXPENSE INCURRED
 34 BENEFITS". The insurer may, at its option, include in this provision
 35 a definition of "other valid coverage," approved as to form by the
 36 commissioner, which definition shall be limited in subject matter to
 37 coverage provided by organizations subject to regulation by insurance
 38 law or by insurance authorities of this or any other state of the United
 39 States or any province of Canada, and by hospital or medical service
 40 organizations, and to any other coverage the inclusion of which may be
 41 approved by the commissioner. In the absence of such definition such
 42 term shall not include group insurance, automobile medical payments

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1 insurance, or coverage provided by hospital or medical service
2 organizations or by union welfare plans or employer or employee
3 benefit organizations. For the purpose of applying the foregoing policy
4 provision with respect to any insured, any amount of benefit provided
5 for such insured pursuant to any compulsory benefit statute (including
6 any worker's compensation or employer's liability statute) whether
7 provided by a governmental agency or otherwise shall in all cases be
8 deemed to be "other valid coverage" of which the insurer has had
9 notice. In applying the foregoing policy provision no third party
10 liability coverage shall be included as "other valid coverage".

11 (5) A provision as follows: INSURANCE WITH OTHER
12 INSURERS: If there is other valid coverage, not with this insurer,
13 providing benefits for the same loss on other than an expense incurred
14 basis and of which this insurer has not been given written notice prior
15 to the occurrence or commencement of loss, the only liability for such
16 benefits under this policy shall be for such proportion of the
17 indemnities otherwise provided hereunder for such loss as the like
18 indemnities of which the insurer had notice (including the indemnities
19 under this policy) bear to the total amount of all like indemnities for
20 such loss, and for the return of such portion of the premium paid as
21 shall exceed the pro-rata portion for the indemnities thus determined.
22 If the foregoing policy provision is included in a policy which also
23 contains the next preceding policy provision, there shall be added to the
24 caption of the foregoing provision the phrase "-OTHER BENEFITS".
25 The insurer may, at its option, include in this provision a definition of
26 "other valid coverage," approved as to form by the commissioner,
27 which definition shall be limited in subject matter to coverage provided
28 by organizations subject to regulation by insurance law or by insurance
29 authorities of this or any other state of the United States or any
30 province of Canada, and to any other coverage to the inclusion of
31 which may be approved by the commissioner. In the absence of such
32 definition such term shall not include group insurance or benefits
33 provided by union welfare plans or by employer or employee benefit
34 organizations. For the purpose of applying the foregoing policy
35 provision with respect to any insured, any amount of benefit provided
36 for such insured pursuant to any compulsory benefit statute (including
37 any worker's compensation or employer's liability statute) whether
38 provided by a governmental agency or otherwise shall in all cases be
39 deemed to be "other valid coverage" of which the insurer has had
40 notice. In applying the foregoing policy provision no third party
41 liability coverage shall be included as "other valid coverage".

42 (6) A provision as follows: RELATION OF EARNINGS TO



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INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two (2) years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two (2) years as shall exceed the pro rata amount of the premiums for the benefits actually paid; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars (\$200) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

- (1) until at least fifty (50) years of age; or
- (2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue.

The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition the term shall not include any coverage provided for the insured pursuant to any compulsory benefit statute (including any worker's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows: UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(8) A provision as follows: CONFORMITY WITH STATE



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1 STATUTES: Any provision of this policy which, on its effective date,
 2 is in conflict with the statutes of the state in which the insured resides
 3 on such date is hereby amended to conform to the minimum
 4 requirements of such statutes.

5 (9) A provision as follows: ILLEGAL OCCUPATION: The insurer
 6 shall not be liable for any loss to which a contributing cause was the
 7 insured's commission of or attempt to commit a felony or to which a
 8 contributing cause was the insured's being engaged in an illegal
 9 occupation.

10 (10) A provision as follows: INTOXICANTS AND NARCOTICS:
 11 The insurer shall not be liable for any loss sustained or contracted in
 12 consequence of the insured's being intoxicated or under the influence
 13 of any narcotic unless administered on the advice of a physician.

14 (c) If any provision of this section is in whole or in part inapplicable
 15 to or inconsistent with the coverage provided by a particular form of
 16 policy the insurer, with the approval of the commissioner, shall omit
 17 from such policy any inapplicable provision or part of a provision, and
 18 shall modify any inconsistent provision or part of the provision in such
 19 manner as to make the provision as contained in the policy consistent
 20 with the coverage provided by the policy.

21 (d) The provisions which are the subject of subsections (a) and (b),
 22 or any corresponding provisions which are used in lieu thereof in
 23 accordance with such subsections, shall be printed in the consecutive
 24 order of the provisions in such subsections or, at the option of the
 25 insurer, any such provision may appear as a unit in any part of the
 26 policy, with other provisions to which it may be logically related,
 27 provided the resulting policy shall not be in whole or in part
 28 unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a
 29 person to whom the policy is offered, delivered, or issued.

30 (e) "Insured", as used in this chapter, shall not be construed as
 31 preventing a person other than the insured with a proper insurable
 32 interest from making application for and owning a policy covering the
 33 insured or from being entitled under such a policy to any indemnities,
 34 benefits, and rights provided therein.

35 (f)(1) Any policy of a foreign or alien insurer, when delivered or
 36 issued for delivery to any person in this state, may contain any
 37 provision which is not less favorable to the insured or the beneficiary
 38 than is provided in this chapter and which is prescribed or required by
 39 the law of the state under which the insurer is organized.

40 (f)(2) Any policy of a domestic insurer may, when issued for
 41 delivery in any other state or country, contain any provision permitted
 42 or required by the laws of such other state or country.

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(g) The commissioner may make reasonable rules under IC 4-22-2 concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper, or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

SECTION 55. IC 27-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. A person, including an insurer, ~~agent~~ **insurance producer**, or affiliate of an insurer shall not place before the public, directly or indirectly, an announcement or statement that uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This section does not apply to the association or any other entity that does not sell or solicit insurance.

SECTION 56. IC 27-8-10-2.1, AS AMENDED BY P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of seven (7) members whose principal residence is in Indiana selected as follows:

(1) Three (3) members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with

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the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

- (1) establish procedures for the handling and accounting of assets and money of the association;
- (2) establish the amount and method of reimbursing members of the board;
- (3) establish regular times and places for meetings of the board of directors;
- (4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;
- (5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;
- (6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and
- (7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of

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1 directors and the commissioner. The commissioner may not approve a
 2 delegation unless the protections afforded to the insured are
 3 substantially equivalent to or greater than those provided under this
 4 chapter.

5 (e) The association has the general powers and authority enumerated
 6 by this subsection in accordance with the plan of operation approved
 7 by the commissioner under subsection (c). The association has the
 8 general powers and authority granted under the laws of Indiana to
 9 carriers licensed to transact the kinds of health care services or health
 10 insurance described in section 1 of this chapter and also has the
 11 specific authority to do the following:

12 (1) Enter into contracts as are necessary or proper to carry out this
 13 chapter, subject to the approval of the commissioner.

14 (2) Sue or be sued, including taking any legal actions necessary
 15 or proper for recovery of any assessments for, on behalf of, or
 16 against participating carriers.

17 (3) Take legal action necessary to avoid the payment of improper
 18 claims against the association or the coverage provided by or
 19 through the association.

20 (4) Establish a medical review committee to determine the
 21 reasonably appropriate level and extent of health care services in
 22 each instance.

23 (5) Establish appropriate rates, scales of rates, rate classifications
 24 and rating adjustments, such rates not to be unreasonable in
 25 relation to the coverage provided and the reasonable operational
 26 expenses of the association.

27 (6) Pool risks among members.

28 (7) Issue policies of insurance on an indemnity or provision of
 29 service basis providing the coverage required by this chapter.

30 (8) Administer separate pools, separate accounts, or other plans
 31 or arrangements considered appropriate for separate members or
 32 groups of members.

33 (9) Operate and administer any combination of plans, pools, or
 34 other mechanisms considered appropriate to best accomplish the
 35 fair and equitable operation of the association.

36 (10) Appoint from among members appropriate legal, actuarial,
 37 and other committees as necessary to provide technical assistance
 38 in the operation of the association, policy and other contract
 39 design, and any other function within the authority of the
 40 association.

41 (11) Hire an independent consultant.

42 (12) Develop a method of advising applicants of the availability

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of other coverages outside the association and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may not be more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year. In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

(g) Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide

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for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

(h) The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

(i) The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

(j) All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

(k) The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

(l) The association shall pay an ~~agent's~~ **insurance producer's** referral fee of twenty-five dollars (\$25) to each insurance ~~agent~~ **producer** who refers an applicant to the association if that applicant is accepted.

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies

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amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 57. IC 27-8-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Before January 1, 1996, the board of directors of the association shall establish eligibility guidelines for the issuance of an association policy under this chapter to prohibit an:

- (1) employer;
- (2) insurance ~~agent~~ **producer**; or
- (3) insurance broker;

from placing in or referring to the association an individual who works for an employer who offers employees an employee welfare benefit plan (as defined in 29 U.S.C. 1002).

SECTION 58. IC 27-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The insurance commissioner shall adopt rules under IC 4-22-2 establishing standards of full and fair disclosure concerning long term care insurance policies. The standards must require disclosure of information concerning the following:

- (1) The sale of the policies.
- (2) Terms of renewability.
- (3) Initial and subsequent terms of eligibility.
- (4) Nonduplication of coverage provisions.
- (5) Coverage of dependents.
- (6) Preexisting conditions.
- (7) Termination of insurance coverage.
- (8) Probationary periods.
- (9) Limitations on coverage.
- (10) Exceptions to coverage.
- (11) Reductions from coverage.
- (12) Elimination periods.
- (13) Requirements for replacement.
- (14) Recurrent conditions.
- (15) Definitions of terms.
- (16) Continuation or conversion of coverage.

(b) The insurance commissioner shall adopt rules under IC 4-22-2 to establish minimum standards concerning:

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- 1 (1) marketing practices;
- 2 (2) ~~agent~~ **insurance producer** continuing education;
- 3 (3) penalties; and
- 4 (4) reporting practices;
- 5 for long term care insurance.

6 (c) Rules adopted by the insurance commissioner under this section
7 must:

- 8 (1) recognize the unique, developing, and experimental nature of
9 long term care insurance; and
- 10 (2) where necessary or appropriate, recognize the distinctions
11 between group insurance policies and individual insurance
12 policies.

13 SECTION 59. IC 27-8-12-14 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The insurer
15 shall deliver an outline of the coverage provided by an individual long
16 term care insurance policy to the prospective applicant at the time of
17 initial solicitation through means that prominently direct the attention
18 of the recipient to the document and the document's purpose.

19 (b) The commissioner shall prescribe a standard format regarding:

- 20 (1) style;
- 21 (2) arrangement;
- 22 (3) overall appearance; and
- 23 (4) content;

24 for an outline of coverage.

25 (c) An ~~agent~~ **insurance producer** who solicits a long term care
26 insurance policy shall deliver the outline of coverage before the
27 presentation of an application or enrollment form.

28 (d) The outline of coverage must be presented in conjunction with
29 any application or enrollment form when there is a direct response
30 solicitation of long term care insurance.

31 (e) An outline of coverage required under this section must include
32 the following:

- 33 (1) A description of the principal benefits and coverage provided
34 in the policy.
- 35 (2) A statement of the principal exclusions, reductions, and
36 limitations set forth in the policy.
- 37 (3) A statement of the policy's renewal provisions, including any
38 reservation by the insurer of a right to change premiums.
- 39 (4) A statement that the outline of coverage is a summary of the
40 policy issued or applied for, and that the policy should be
41 consulted to determine the exact terms of the coverage provided
42 by the policy.

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(5) A description of the terms under which the policy may be returned and the premium refunded.

(6) A brief description of the relationship of the cost of care and benefits.

(7) A statement of the terms under which the policy or certificate may continue or be discontinued, including any reservation in the policy of the right to change the premium.

(8) A specific statement of the provisions for continuation or conversion of group coverage.

SECTION 60. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:

(1) Bonuses.

(2) Gifts.

(3) Prizes.

(4) Awards.

(5) Finders fees.

(b) An insurer or other entity that provides a commission or other compensation to an ~~agent~~ **insurance producer** or other representative for the sale of a long term care insurance policy may not violate the following conditions:

(1) The amount of the first year commission or first year compensation for selling or servicing the policy may not exceed two hundred percent (200%) of the amount of the commission or other compensation paid in the second year.

(2) The amount of commission or other compensation provided in years after the second year must be equal to the amount provided in the second year.

(3) A commission or other compensation must be provided each year for at least five (5) years after the first year.

(c) If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its ~~agent~~ **insurance producer** may not accept, compensation in an amount greater than the renewal compensation payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

(d) This section does not apply to the following:

(1) Life insurance policies and certificates.

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(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

SECTION 61. IC 27-8-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In addition to any other sanction provided under this article, the commissioner may impose a civil penalty against an insurer who has violated this chapter or rules adopted under this chapter. A penalty imposed under this section must be the greater of:

(1) three (3) times the amount of the commissions paid for each policy involved in the violation; or

(2) ten thousand dollars (\$10,000).

(b) In addition to any other sanction provided under this title, the commissioner may impose a penalty against an insurance ~~agent~~ **producer** who has violated this chapter or rules adopted under this chapter. The penalty must be the greater of:

(1) up to three (3) times the amount of the commissions paid for each policy involved in the violation; or

(2) twenty-five hundred dollars (\$2,500).

SECTION 62. IC 27-8-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "Medicare supplement insurance solicitation" means a meeting between an insurance ~~agent~~ **producer** and another individual at which the ~~agent~~ **insurance producer** discusses the possible issuance of a medicare supplement policy to the other individual.

SECTION 63. IC 27-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Following a Medicare supplement insurance solicitation, an ~~agent~~ **insurance producer** shall give the individual involved in the solicitation a receipt for materials received by the ~~agent~~ **insurance producer** as a result of the solicitation.

(b) The receipt required under subsection (a) must be dated and signed by the ~~agent~~ **insurance producer** and must set forth the following:

(1) An itemized list of the materials received by the ~~agent~~ **insurance producer**.

(2) The ~~agent's~~ **insurance producer's** name.

(3) The address and telephone number of the ~~agent's~~ **insurance producer's** office.

(c) As used in this section, "materials" includes any:

(1) document;

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- (2) cash;
- (3) money order; or
- (4) check or draft;

received by the ~~agent~~ **insurance producer**. The term does not include an application for a policy.

SECTION 64. IC 27-8-19.8-8.5, AS AMENDED BY P.L.132-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. The following must be licensed as a ~~life insurance agent~~ **an insurance producer with a life qualification** under ~~IC 27-1-15.6~~ **IC 27-1-15.6-7**:

- (1) A viatical settlement broker.
- (2) A person who solicits, offers, or attempts to negotiate a viatical settlement contract with a viator.

SECTION 65. IC 27-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A delinquency proceeding under this chapter may only be commenced by the commissioner. A court may not entertain, hear, or determine a proceeding commenced by any other person.

(b) A court may not entertain, hear, or determine any complaint requesting:

- (1) the dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer; or
- (2) an injunction, restraining order, or other relief preliminary to, incidental to, or relating to those proceedings other than in accordance with this article.

(c) In addition to other grounds for jurisdiction provided by the law, an Indiana court having jurisdiction of the subject matter has jurisdiction over a person served under the Indiana rules of court or other applicable law in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in Indiana if the person served is:

- (1) obligated to the insurer in any way as an incident to any agency or brokerage arrangement that may exist or has existed between the insurer and the ~~agent~~ **insurance producer** or broker, in any action on or incident to the obligation;
- (2) a reinsurer who:
 - (A) has at any time written a policy of reinsurance for an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced; or
 - (B) is an ~~agent~~ **insurance producer** or broker of, or for, the reinsurer in any action on or incident to the reinsurance contract; or
- (3) or has been an officer, manager, trustee, organizer, promoter,



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or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced in any action resulting from such a relationship with the insurer.

(d) If it appears to a receiver appointed in a proceeding under this article that there has been criminal or tortious conduct, breach of any contractual or fiduciary obligation, or other unlawful conduct detrimental to the insurer by any director, officer, manager, ~~agent~~, **insurance producer**, broker, employee, or other person or entity, the receiver may pursue all appropriate legal remedies on behalf of the insurer.

(e) If the court on motion of any party finds that any action should as a matter of substantial justice be tried in a forum outside Indiana, the court may enter an order to stay further proceedings on the action in Indiana.

(f) All action authorized by this section must be brought in the Marion County circuit court.

SECTION 66. IC 27-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An officer, manager, director, trustee, owner, employee, or ~~agent~~ **insurance producer** of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under IC 27-9 or any investigation preliminary to the proceeding. The term "person", as used in this section, includes any person who exercises control, directly or indirectly, over activities of ~~an~~ **the insurer's** insurer through any holding company or other affiliate of the insurer. "To cooperate" includes:

(1) replying promptly in writing to any inquiry from the commissioner requesting such a reply; and

(2) making available to the commissioner all books, accounts, documents, or other records, information, or property of or pertaining to the insurer and in ~~his~~ **the insurer's** possession, custody, or control.

(b) A person may not obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary to or incidental to an investigation.

(c) This section does not abridge existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.

(d) A person who:

(1) is included within subsection (a) and who fails to cooperate with the commissioner;

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(2) obstructs or interferes with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental to a delinquency proceeding; or

(3) violates any order of the commissioner under IC 27-9; commits a Class A infraction.

SECTION 67. IC 27-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commissioner may petition for an order dissolving the corporate existence of a domestic insurer, or the United States branch of an alien insurer domiciled in Indiana, at the time ~~he~~ **the commissioner** applies for a liquidation order. The Marion County circuit court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, the dissolution shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent but may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.

(b) The liquidator may do all acts necessary or appropriate for the accomplishment of the liquidation, including the following:

(1) Appoint a special deputy to act for him under this article, and determine a reasonable compensation for that special deputy.

(2) Employ employees and ~~agents~~; **insurance producers**, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as ~~he~~ **the liquidator** considers necessary to assist in the liquidation.

(3) Fix the reasonable compensation of employees and ~~agents~~; **insurance producers**, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the court.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer.

(5) Hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to ~~his~~ **the person's** testimony after it has been correctly reduced to writing, and in connection with hearings and the examination of witnesses require the production of any books, papers, records, or other documents which ~~he~~ **the liquidator** deems relevant to the inquiry.

(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose:

(A) institute timely action in other jurisdictions, in order to

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- 1 forestall garnishment and attachment proceedings against
- 2 those debts;
- 3 (B) do other acts necessary or expedient to collect, conserve,
- 4 or protect its assets or property, including the power to sell,
- 5 compound, compromise, or assign debts for purposes of
- 6 collection upon terms and conditions as ~~he~~ **the liquidator**
- 7 considers best; and
- 8 (C) pursue any creditor's remedies available to enforce ~~his~~ **the**
- 9 **liquidator's** claims.
- 10 (7) Conduct public and private sales of the property of the insurer.
- 11 (8) Use assets of the estate of an insurer under a liquidation order
- 12 to transfer policy obligations to a solvent assuming insurer, if the
- 13 transfer can be arranged without prejudice to applicable priorities
- 14 under section 40 of this chapter.
- 15 (9) Acquire, hypothecate, encumber, lease, improve, sell, transfer,
- 16 abandon, or otherwise dispose of or deal with, any property of the
- 17 insurer at its market value or upon such terms and conditions as
- 18 are fair and reasonable.
- 19 (10) Borrow money on the security of the insurer's assets or
- 20 without security and execute and deliver all documents necessary
- 21 to that transaction for the purpose of facilitating the liquidation.
- 22 (11) Enter into contracts that are necessary to carry out the order
- 23 to liquidate, and affirm or disavow any contracts to which the
- 24 insurer is a party.
- 25 (12) Continue to prosecute and to institute in the name of the
- 26 insurer, or in ~~his~~ **the liquidator's** own name, all suits and other
- 27 legal proceedings, in Indiana or elsewhere, and abandon the
- 28 prosecution of claims ~~he~~ **the liquidator** considers unprofitable to
- 29 pursue further.
- 30 (13) Prosecute any action that may exist in behalf of the creditors,
- 31 members, policyholders, or shareholders of the insurer against any
- 32 director or officer of the insurer, or any other person.
- 33 (14) Remove all records and property of the insurer to the offices
- 34 of the commissioner or to some other place as may be convenient
- 35 for the purposes of efficient and orderly execution of the
- 36 liquidation.
- 37 (15) Deposit in one (1) or more banks in Indiana sums required
- 38 for meeting current administration expenses and dividend
- 39 distributions.
- 40 (16) Invest all sums not currently needed, unless the court orders
- 41 otherwise.
- 42 (17) File any necessary documents for record in the office of any

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recorder of deeds or record office in Indiana or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included in sections 14 through 16 of this chapter.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers conferred upon receivers by the laws of Indiana not inconsistent with this article.

SECTION 68. IC 27-9-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Unless the Marion County circuit court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by:

(1) first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business;

(2) first-class mail to any guaranty association or foreign guaranty association that is or may become obligated as a result of the liquidation;

(3) first-class mail to all insurance ~~agents~~ **producers** of the insurer;

(4) first-class mail to all persons known or reasonably expected to have claims against the insurer, including all policyholders, at their last known address as indicated by the records of the insurer;

(5) first-class mail to the secretary of state's office; and

(6) publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in all other locations the liquidator considers appropriate.

(b) Notice to potential claimants under subsection (a) must require claimants to file with the liquidator their claims, together with proper proof of those claims under section 34 of this chapter, before a date the liquidator specifies in the notice. The liquidator need not require

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persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. All claimants must keep the liquidator informed of any changes of address.

(c) If notice is given in accordance with this section, the distribution of assets of the insurer under this chapter shall be conclusive with respect to all claimants, whether or not they received notice.

SECTION 69. IC 27-9-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Every person who receives notice in the form prescribed in section 10 of this chapter that an insurer whom ~~he~~ **the person** represents as an **agent insurance producer** is the subject of a liquidation order must, within fifteen (15) days of that notice, give notice of the liquidation order to each policyholder as provided by subsection (b).

(b) The notice must be sent by first class mail to the last address contained in the **agent's insurance producer's** records to each policyholder or other person named in any policy issued through that **agent insurance producer** by the insurer, if ~~he~~ **the insurance producer** has a record of the address of the policyholder or other person.

(c) A policy shall be treated as though it were issued through an **agent insurance producer** if the **agent insurance producer** has a property interest in the expiration of the policy, or if the **agent insurance producer** has had in ~~his~~ **the insurance producer's** possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of the policy has been transferred to another.

(d) The written notice must include:

- (1) the name and address of the insurer;
- (2) the name and address of the ~~agent~~ **insurance producer**; and
- (3) identification of the policy impaired and the nature of the impairment, including termination of coverage as described in section 8 of this chapter.

(e) Notice by a general agent satisfies the notice requirement for any ~~agents~~ **insurance producers** under contract to ~~him~~ **the general agent**. Each **agent insurance producer** obligated to give notice under this section shall file a report of compliance with the liquidator.

(f) After a hearing under IC 4-21.5-3, an **agent insurance producer** failing to give notice or file a report of compliance as required by subsection (e) may be subject to payment of a penalty of not more than one thousand dollars (\$1,000) and may have ~~his~~ **the insurance producer's** license suspended.

(g) The liquidator may waive the duties imposed by this section if

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1 ~~he the liquidator~~ determines that other notice to the policyholders of
 2 the insurer under liquidation is adequate.

3 SECTION 70. IC 27-9-3-31 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) An ~~agent~~,
 5 **insurance producer**, a broker, an agency, a premium finance
 6 company, an insured, or any other person responsible for the payment
 7 of a premium shall be obligated to pay any earned but unpaid premium
 8 for any policy that is due the insurer for coverage provided before the
 9 declaration of insolvency. However, an ~~agent~~, **insurance producer**, a
 10 broker, an agency, a premium finance company, an insured, or any
 11 other person responsible for the payment of a premium shall not be
 12 responsible for any unpaid premium unearned as of the time of the
 13 declaration of insolvency.

14 (b) In addition to the obligation owed under subsection (a), an ~~agent~~,
 15 **insurance producer**, broker, agency, premium finance company, or
 16 any other person, other than the insured, responsible for the payment
 17 of a premium to the insurance company or any holding company shall
 18 pay any unearned premium collected from the insured before the
 19 declaration of insolvency. The commissioner may also recover from
 20 that person any part of an unearned premium that represents a
 21 commission of that person.

22 (c) Credits or setoffs or both may not be allowed to an ~~agent~~,
 23 **insurance producer**, broker, or premium finance company for any
 24 amounts advanced to the insurer by the ~~agent~~, **insurance producer**,
 25 broker, or premium finance company on behalf of, but in the absence
 26 of a payment by, the insured.

27 (d) Upon satisfactory evidence of a violation of this section, the
 28 commissioner may pursue the following courses of action against those
 29 parties licensed by the department of insurance:

30 (1) Suspend, revoke, or refuse to renew the licenses of the
 31 offending party.

32 (2) Impose a penalty of not more than one thousand dollars
 33 (\$1,000) for each and every act in violation of this article by the
 34 party.

35 These penalties are in addition to and not in lieu of the obligations
 36 owed under subsections (a) and (b).

37 (e) Before the commissioner may take any action as provided in
 38 subsection (d), ~~he the commissioner~~ shall give written notice to the
 39 person accused of violating the law, stating specifically the nature of
 40 the alleged violation, and fixing a time (at least ten (10) days after the
 41 notice is sent) and place when a hearing on the matter is to be held.
 42 After the hearing, if the commissioner finds a violation, or upon failure

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1 of the accused to appear at the hearing, the commissioner shall impose
 2 whatever penalties allowed under subsection (d) as ~~he~~ **the**
 3 **commissioner** considers advisable.

4 (f) Subsection (a) does not relieve an insured of any obligation that
 5 may exist to reimburse any agency, ~~agent~~, **insurance producer**, broker,
 6 premium finance company, or other person for amounts advanced to
 7 the insurer on behalf of the insured.

8 SECTION 71. IC 27-9-4-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The domiciliary
 10 liquidator of an insurer domiciled in a reciprocal state shall, except as
 11 to special deposits and security on secured claims under section 4(c) of
 12 this chapter, be vested by operation of law with the title to all of the
 13 assets, property, contracts, and rights of action, ~~agents'~~ **insurance**
 14 **producers'** balances, and all of the books, accounts, and other records
 15 of the insurer located in Indiana. The date of vesting shall be the date
 16 of the filing of the petition, if that date is specified by the domiciliary
 17 law for the vesting of property in the domiciliary state. Otherwise, the
 18 date of vesting shall be the date of entry of the order directing
 19 possession to be taken. The domiciliary liquidator shall have the
 20 immediate right to recover balances due from ~~agents~~ **insurance**
 21 **producers** and to obtain possession of the books, accounts, and other
 22 records of the insurer located in Indiana. ~~He~~ **The domiciliary**
 23 **liquidator** also shall have the right to recover all other assets of the
 24 insurer located in Indiana, subject to section 4 of this chapter.

25 (b) If a domiciliary liquidator is appointed for an insurer not
 26 domiciled in a reciprocal state, the commissioner shall be vested by
 27 operation of law with the title to all of the property, contracts and rights
 28 of action, and all of the books, accounts, and other records of the
 29 insurer located in Indiana, at the same time that the domiciliary
 30 liquidator is vested with title in the domicile. The Indiana insurance
 31 commissioner may petition for a conservation or liquidation order
 32 under ~~sections~~ **section** 1 or 2 of this chapter, or for an ancillary
 33 receivership under section 4 of this chapter, or after approval by the
 34 Marion County circuit court may transfer title to the domiciliary
 35 liquidator, as the interests of justice and the equitable distribution of
 36 the assets require.

37 (c) Claimants residing in Indiana may file claims with the liquidator
 38 or ancillary receiver, if any, in Indiana or with the domiciliary
 39 liquidator, if the domiciliary law permits. The claims must be filed on
 40 or before the last date fixed for the filing of claims in the domiciliary
 41 liquidation proceedings.

42 SECTION 72. IC 27-10-1-2 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. "All lines fire and casualty ~~agent~~" **insurance producer**" means an ~~agent~~ **insurance producer** who holds a valid license issued by the department of insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Disability insurance.
- (5) Inland marine insurance.

SECTION 73. IC 27-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

- (1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or
- (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

- (1) may not be issued except in compliance with this article; and
- (2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty ~~agent~~, **insurance producer**, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's

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1 qualifications, residence, prospective place of business, and any other
 2 matters which, in the opinion of the commissioner, are deemed
 3 necessary or expedient in order to protect the public and ascertain the
 4 qualifications of the applicant. The commissioner may also conduct any
 5 reasonable inquiry or investigation the commissioner sees fit, relative
 6 to the determination of the applicant's fitness to be licensed or to
 7 continue to be licensed.

8 (e) The failure of the applicant to secure approval of the
 9 commissioner shall not preclude the applicant from applying as many
 10 times as the applicant desires. However, an applicant's application may
 11 not be considered by the commissioner within one (1) year subsequent
 12 to the date upon which the commissioner denied the applicant's last
 13 application.

14 SECTION 74. IC 27-10-3-3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The application
 16 for license, in addition to the matters set out in section 1 of this chapter,
 17 to serve as a bail agent must affirmatively show that:

18 (1) the applicant is at least eighteen (18) years of age and is of
 19 good moral character;

20 (2) the applicant has never been convicted of a disqualifying
 21 offense, notwithstanding IC 25-1-1.1, or:

22 (A) in the case of a felony conviction, at least ten (10) years
 23 have passed since the date of the applicant's conviction or
 24 release from imprisonment, parole, or probation, whichever is
 25 later; or

26 (B) in the case of a misdemeanor disqualifying offense, at least
 27 five (5) years have passed since the date of the applicant's
 28 conviction or release from imprisonment, parole, or probation,
 29 whichever is later; and

30 (3) the applicant has knowledge, experience, or instruction in the
 31 bail bond business, or has held a valid all lines fire and casualty
 32 ~~agent's~~ **insurance producer's** license for one (1) year within the
 33 last five (5) years, or has been employed by a company engaged
 34 in writing bail bonds in which field the applicant has actively
 35 engaged for at least one (1) year of the last five (5) years.

36 (b) The application must affirmatively show that the applicant has
 37 been a bona fide resident of ~~the state~~ **Indiana** for one (1) year
 38 immediately preceding the date of application. However, the
 39 commissioner may waive this requirement.

40 SECTION 75. IC 27-11-8-9 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~Agents~~
 42 **Insurance producers** of societies shall be licensed in accordance with

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the laws regulating the licensing and the revocation, suspension, or termination of license of resident and nonresident ~~agents~~ **insurance producers**.

(b) No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of the officer's, employee's or member's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of those contracts no commission or other compensation directly dependent upon the amount of business obtained.

SECTION 76. IC 27-13-1-3, AS AMENDED BY P.L.132-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. "~~Agent~~" **"Insurance producer"** means a person who is a licensed insurance ~~agent~~ **producer** under IC 27-1-15.6 and who:

(1) solicits, negotiates, effects, procures, delivers, renews, or continues a policy or contract for membership in a health maintenance organization or a prepaid limited health service organization;

(2) takes or transmits a membership fee or premium for the policy or contract other than for the ~~agent~~ **insurance producer**; or

(3) causes the ~~agent~~ **insurance producer** to be held out to the public, through advertising or otherwise, as a producer for a health maintenance organization or a prepaid limited health service organization.

SECTION 77. IC 27-13-21-1, AS AMENDED BY P.L.132-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. To qualify to represent a health maintenance organization or a limited service health maintenance organization, an ~~agent~~ **insurance producer** shall be licensed ~~and regulated as with~~ an accident and health ~~insurance agent~~ **or sickness qualification** under ~~IC 27-1-15.6~~ **IC 27-1-15.6-7**.

SECTION 78. IC 27-13-34-18, AS AMENDED BY P.L.132-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (c), a limited service health maintenance organization shall maintain in force a fidelity bond in its own name on its officers and employees:

(1) in an amount not less than fifty thousand dollars (\$50,000); or

(2) in any other amount prescribed by the commissioner.

(b) The fidelity bond required by this section must be issued by an insurance company not affiliated in any way with the limited service health maintenance organization, that is licensed to do business in



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Indiana. However, if a fidelity bond is not available from an insurance company that holds a certificate of authority in Indiana, a limited service health maintenance organization may satisfy the requirement of this section by maintaining a fidelity bond procured by a surplus lines insurance **agent producer** not affiliated in any way with the limited service health maintenance organization who holds a license issued under IC 27-1-15.8.

(c) Instead of maintaining a fidelity bond under subsection (a), a limited service health maintenance organization may deposit with the commissioner:

- (1) cash;
- (2) certificates of deposit;
- (3) United States government obligations acceptable to the commissioner;
- (4) any other securities acceptable to the commissioner of the types referred to in IC 27-13-11-1; or
- (5) a combination of the items described in subdivisions (1) through (4).

A deposit made under this subsection is in addition to any other required deposit, and must also be maintained in joint custody with the commissioner in the amount and subject to the same conditions required for a fidelity bond under this section.

SECTION 79. IC 28-1-11-2, AS AMENDED BY P.L.134-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Any bank or trust company shall have power to act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation; and in such capacity to receive and disburse money; to transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; to authenticate and certify any such bonds and certificates of indebtedness; to act as agent to buy and sell domestic and foreign transportation; to solicit and write insurance as **agent an insurance producer** or broker for any insurance company authorized to do business in the state or states where the **agent insurance producer** or broker operates; and to act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 80. IC 28-1-11-2.5, AS AMENDED BY P.L.130-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A bank or trust company may act as an **agent insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.



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(b) A bank or trust company that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract:

- (1) is subject to all requirements of IC 27; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) A bank or trust company may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of services; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

SECTION 81. IC 28-5-1-6.5, AS AMENDED BY P.L.130-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and investment company may act as an **agent insurance producer** for the sale of any annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) An industrial loan and investment company that acts as an **agent insurance producer** for the sale of an annuity contract:

- (1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an **agent insurance producer** under IC 27-1-15.6; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) This section does not give power to, or otherwise affect the power of, an industrial loan and investment company to act as an **agent insurance producer** for the sale of life insurance other than an annuity contract.

SECTION 82. IC 28-6.1-6-14, AS AMENDED BY P.L.130-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A savings bank may solicit and write insurance as an **agent insurance producer** or a broker for any

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1 insurance company authorized to do business in the state or states
2 where the **agent insurance producer** or broker operates.

3 (b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may
4 act as an **agent insurance producer** for the sale of any life insurance
5 policy or annuity contract issued by a life insurance company (as
6 defined in IC 27-1-2-3) authorized to do business in the state or states
7 where the **agent insurance producer** operates.

8 (c) A savings bank or its affiliate that acts as an **agent insurance**
9 **producer** for the sale of a life insurance policy or an annuity contract
10 under subsection (b):

11 (1) is subject to all requirements of IC 27 with respect to the
12 **agent's insurance producer's** activity in Indiana; and

13 (2) must comply with the disclosure requirements under
14 IC 27-1-38.

15 (d) A savings bank or its affiliate may not condition:

16 (1) an extension of credit;

17 (2) a lease or sale of real or personal property;

18 (3) the performance of a service; or

19 (4) the amount charged for:

20 (A) extending credit;

21 (B) leasing or selling real or personal property; or

22 (C) performing services;

23 upon a person's purchase of a life insurance policy or an annuity
24 contract from the savings bank or its affiliate.

25 (e) This section does not prohibit a savings bank or its affiliate from
26 requiring that a person, as a condition to a transaction, obtain a life
27 insurance policy from an insurance company acceptable to the savings
28 bank or its affiliate.

29 SECTION 83. IC 28-7-1-9.1, AS AMENDED BY P.L.130-2002,
30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 9.1. (a) A credit union or a related credit union
32 service organization (as defined in section 0.5(7) of this chapter) that
33 acts as an **agent insurance producer** for the sale of a life insurance
34 policy or an annuity contract issued by a life insurance company (as
35 defined in IC 27-1-2-3):

36 (1) is subject to the requirements of IC 27; and

37 (2) must comply with the disclosure requirements of IC 27-1-38.

38 (b) A credit union or credit union service organization may not
39 condition:

40 (1) an extension of credit;

41 (2) a lease or sale of real or personal property;

42 (3) the performance of a service; or

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(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 84. IC 28-14-3-10, AS AMENDED BY P.L.215-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A corporate fiduciary has the power to act as fiscal or transfer agent of the United States or any state, municipality, body politic, or corporation, and may, in that capacity:

(1) receive and disburse money;

(2) transfer, register, and countersign certificates of stocks, bonds, and other evidence of indebtedness;

(3) authenticate and certify bonds and certificates of indebtedness referred to in subdivision (2);

(4) act as agent to buy and sell domestic and foreign transportation;

(5) solicit and write insurance as **agent insurance producer** or broker for any insurance company authorized to do business in Indiana; and

(6) act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 85. IC 28-14-3-11, AS AMENDED BY P.L.130-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an **agent insurance producer** for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A corporate fiduciary that acts as an agent for the sale of an annuity contract or a life insurance policy:

(1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an **agent insurance producer** under IC 27-1-15.6; and

(2) must comply with the disclosure requirements under IC 27-1-38.

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1 SECTION 86. IC 34-18-5-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The surcharge
 3 shall be collected on the same basis as premiums by each insurer, risk
 4 manager, or surplus lines ~~agent~~ **producer**.

5 (b) The surcharge is due and payable within thirty (30) days after
 6 the premium for malpractice liability insurance has been received by
 7 the insurer, risk manager, or surplus lines ~~agent~~ **producer** from a
 8 health care provider in Indiana. If a surcharge is not paid as required by
 9 this section, the insurer, risk manager, or surplus lines ~~agent~~ **producer**
 10 responsible for the delinquency is liable for the surcharge plus a
 11 penalty equal to ten percent (10%) of the amount of the surcharge.

12 (c) If the annual premium surcharge is not paid within the time limit
 13 specified in subsection (b), the certificate of authority of the insurer,
 14 risk manager, and surplus lines ~~agents~~ **producer** shall be suspended
 15 until the annual premium surcharge is paid.

16 SECTION 87. IC 35-43-9-4, AS AMENDED BY P.L.132-2001,
 17 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]: Sec. 4. As used in this chapter, "title insurance agent"
 19 means a person who holds a limited ~~insurance representative's~~ **lines**
 20 **producer's** license issued under IC 27-1-15.6-18(4) and disburses
 21 funds from a title insurance escrow account to a party in connection
 22 with a residential real property transaction.

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